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**Ordinance  
on Risk Reduction related to  
the Use of certain particularly dangerous Substances,  
Preparations and Articles  
(Ordinance on Chemical Risk Reduction, ORRChem)**

of 18 May 2005 (Status as on 1 February 2009)

**Please note:**

this translation does not yet include the amendments of 1 March 2010 (AS 2009 5429)!  
 this translation does not yet include the amendments of 1 December 2010 (AS 2010 5223)!  
 this translation does not yet include the amendments of 1 February 2011 (AS 2011 113)!  
 this translation does not yet include the amendments of 1 August 2011 (AS 2011 113)!  
 this translation does not yet include the amendments of 1 August 2011 (AS 2011 3379)!  
 this translation does not yet include the amendments of 1 August 2012 (AS 2012 113)!

*The Swiss Federal Council,*

pursuant to Article 2 paragraph 4, Article 19, Article 22 paragraph 2, Article 24, Article 38, Article 39 paragraph 2, Article 44 paragraph 2, Article 45 paragraphs 2 and 5 and Article 46 paragraph 1 of the Federal Act of 15 December 2000<sup>1</sup> on Protection against Dangerous Substances und Preparations (*Chemicals Act*), having regard to Article 29, Article 30a, Article 30b, Article 30c paragraph 3, Article 30d, Article 32a<sup>bis</sup>, Article 38 paragraph 3, Article 39 paragraphs 1 and 1<sup>bis</sup>, Article 41 paragraph 3, Article 44 paragraphs 2 and 3, Article 46 paragraphs 2 and 3, Article 48 paragraph 2 and Article 63 paragraph 2 of the Federal Act of 7 October 1983<sup>2</sup> on the Protection of the Environment, having regard to Article 9 paragraph 2 letter c, Article 27 paragraph 2 and Article 48 paragraph 2 of the Federal Act of 24 January 1991<sup>3</sup> on Water Pollution Control, having regard to Article 9 and Article 14 paragraph 2 of the Federal Act of 9 October 1992<sup>4</sup> on Foodstuffs and Utility Articles, and having regard to the Federal Act of 6 October 1995<sup>5</sup> on Technical Barriers to Trade,

*ordains:*

AS 2005 2197

- 1 SR 813.1
- 2 SR 814.01
- 3 SR 814.20
- 4 SR 817.0
- 5 SR 946.51

## Chapter 1: General Provisions

### Art. 1 Purpose and scope

<sup>1</sup> This Ordinance:

- a. prohibits or restricts the use of the particularly dangerous substances, preparations and articles regulated in the annexes;
- b. lays down regulations relating to the personal and professional requirements for the use of certain particularly dangerous substances, preparations and articles.

<sup>2</sup> Unless covered by specific disposal requirements laid down in this Ordinance, substances, preparations and articles which are waste according to Art. 7 paragraph 6 of the Federal Act on the Protection of the Environment are subject to:

- a. the Technical Ordinance of 10 December 1990<sup>6</sup> on Waste;
- b. <sup>7</sup> the Ordinance of 22 June 2005<sup>8</sup> on Movements of Waste; and
- c. the Ordinance of 14 January 1998<sup>9</sup> on the Return, Taking Back and Disposal of Electrical and Electronic Equipment.

<sup>3</sup> This Ordinance does not apply:

- a. to the transport of substances, preparations and articles by road, railway, ship, air and pipeline;
- b. <sup>10</sup> to transit under customs surveillance of substances, preparations and articles provided that they do not undergo any treatment or conversion during this transit.

### Art. 2 Definitions

In this Ordinance:

- a. *manufacturer* means any natural or legal person who manufactures, obtains or imports substances, preparations or articles on a professional or commercial basis; any person who obtains substances, preparations or articles in Switzerland and supplies them on a professional or commercial basis, without altering their composition, under his own trade name or for some other purpose is also a manufacturer; if a person arranges for the manufacture of a substance, preparation or article in Switzerland by a third party, this person is the sole manufacturer if he has his habitual residence or registered office in Switzerland;

<sup>6</sup> SR **814.600**

<sup>7</sup> Amended in accordance with Annex 3 No. II 8 of the Ordinance of 22 June 2005 on Movements of Waste, in force since 1 Jan. 2006 (SR **814.610**).

<sup>8</sup> SR **814.610**

<sup>9</sup> SR **814.620**

<sup>10</sup> Amended in accordance with Annex 4 No. 45 of the Customs Ordinance of 1 Nov. 2006, in force since 1 May 2007 (SR **631.01**).

- b. *trader* means any natural or legal person who obtains substances, preparations or articles in Switzerland and uses them for commercial purposes without altering their composition.

## Chapter 2: Use of Substances, Preparations and Articles

### Section 1: Restrictions, Prohibitions and Exemptions

#### Art. 3

<sup>1</sup> The restrictions and prohibitions applicable to the use of specific substances, preparations and articles and the exemptions to these are regulated in the annexes.

<sup>2</sup> Exemptions under the annexes are granted only to persons who have their habitual residence or registered office in Switzerland.

### Section 2: Authorisations

#### Art. 4 Uses requiring authorisation

The following uses require an authorisation issued by the authorities mentioned below:

Use	Authority issuing authorisation
a. Use, on a professional or commercial basis, of products intended to protect plants against rodents (rodenticides) if used in more than one farm or by machine	The cantonal authorities; with the agreement of the Federal Office of Public Health (FOPH), the Federal Office for Agriculture (FOAG) and the Federal Office for the Environment (FOEN) in the case of regional or supraregional uses <sup>11</sup>
b. The aerial application of plant protection products, biocides and fertilisers	The Federal Office of Civil Aviation, with the agreement of the FOPH, the FOAG and the FOEN
c. The use of plant protection products and fertilisers in forests, unless they are included in an authorisation under letter a or b	The cantonal authorities

<sup>11</sup> The designation of the Administrative Unit has been amended in accordance with Art. 16 para. 3 of the Publications Ordinance of 17 Nov. 2004 (SR 170.512.1). Amendment has been applied throughout the text.

**Art. 5** Authorisation requirements

<sup>1</sup> An authorisation is issued provided that there is no possibility that the use of the products will represent an environmental hazard. The authorisation is limited in time and to a specific area.

<sup>2</sup> Authorisations are issued only to persons residing or with a registered office in Switzerland or in a member state of the European Union (EU) or the European Free Trade Association (EFTA).

**Art. 6** Coordination

If the authorisation comes under the responsibility of a federal authority, the latter must consult the relevant cantonal authority before making a decision and inform it of its decision.

**Section 3: Certification of Users****Art. 7** Uses of substances and preparations requiring a certificate

<sup>1</sup> The following activities may be exercised on a professional or commercial basis only by natural persons with an appropriate certificate or with a qualification regarded as equivalent, or under the supervision of such persons:

- a. the use of:
  1. plant protection products;
  2. pesticides on behalf of third parties;
  3. disinfectants for use in public swimming pools;
  4. wood preservatives
- b. the use of refrigerants during the manufacture, assembly, maintenance or disposal of refrigeration, air conditioning or heat recovery appliances or systems.

<sup>2</sup> Pest control with fumigants may be carried out only by natural persons with an appropriate certificate or with a qualification regarded as equivalent.

<sup>3</sup> The competent Federal Department regulates the details of the certificates. It may provide for exemptions from the certificate requirement and a time limit for certificates for pest control with fumigants. In its ruling it takes account of the aims of protection.

**Art. 8** Evidence of technical knowledge

<sup>1</sup> A certificate is issued to a person who has proven in an examination that he has the knowledge required for his task with regard to:

- a. the basics of ecology and toxicology;
- b. legislation on the protection of the environment, health and workers;

- c. measures aimed at protecting the environment and health;
- d. environmental sustainability as well as the correct use and disposal of substances, preparations and articles;
- e. application equipment and its correct handling.

<sup>2</sup> Certificates from member states of the European Union (EU) and the European Free Trade Association (EFTA) are treated as equivalent to Swiss certificates.

<sup>3</sup> The competent Federal Department or the agency appointed by it decides, on application by a school or a vocational training establishment, whether a certain training qualification is equivalent to a certificate.

<sup>4</sup> The competent Federal Department determines which agency recognises occupational experience as equivalent to a certificate and under what conditions.

<sup>5</sup> Articles 9 - 11 apply mutatis mutandis to:

- a. certificates from member states of the EU and EFTA (para. 2);
- b. vocational qualifications regarded as equivalent to a certificate (para. 3);
- c. occupational experience recognised as equivalent to a certificate (para. 4).

#### **Art. 9** Geographical applicability

Certificates are valid throughout Switzerland.

#### **Art. 10** Compulsory continued training

Any person who holds a certificate and works in this field must regularly acquire knowledge about the latest best practice and receive continued training.

#### **Art. 11** Sanctions

<sup>1</sup> If the holder of a certificate wilfully infringes the legislative requirements on the protection of the environment, health and workers within the area covered by the certificate, or repeatedly infringes such requirements through negligence, the cantonal authority may, by means of a ruling,

- a. require that the person concerned attend a course or take an examination; or
- b. withdraw the certificate temporarily or permanently.

<sup>2</sup> The cantonal authority informs the competent Federal Office of the rulings.

#### **Art. 12** Responsibilities

<sup>1</sup> The Federal Department of the Environment, Transport, Energy and Communications (DETEC) is responsible for certification under Art. 7 paragraph 1 letter a Nos. 1 and 4 as well as letter b.

<sup>2</sup> The Federal Department of Home Affairs (DHA) is responsible for certification under Art. 7 paragraph 1 letter a Nos. 2 and 3 as well as paragraph 2.

<sup>3</sup> The Department defines the

- a. content, scope and procedure of the examinations;
- b. the documentation requirements of the examining bodies

<sup>4</sup> The Department or the agency appointed by it determines the examining bodies that arrange the examinations and issue the certificates.

<sup>5</sup> DETEC provides opportunities for preparation for the examination within its sphere of responsibility.

### Chapter 3: Enforcement

#### Art. 13 Cantons

The cantons ensure that the provisions in this Ordinance are observed unless there are different regulations relating to responsibilities.

#### Art. 14 Confederation

The Confederation is responsible for:

- a. the tasks assigned to it in Articles 7 - 12 (certificates);
- b. the issuing of permits in accordance with the annexes;
- c. enforcement of the provisions with regard to imports and exports;
- d. enforcement with regard to substances, preparations and articles used for national defence.

#### Art. 15 Delegation of tasks and competences to third parties

<sup>1</sup> The federal agencies concerned may delegate the tasks and powers assigned to them by this Ordinance in full or in part to public bodies or private persons.

<sup>2</sup> If this delegation relates to the enforcement of health protection, it is restricted to Articles 7 to 12 (certificates) and to informational activities in accordance with Art. 28 of the Chemicals Act.

#### Art. 16 Special provisions for enforcement

<sup>1</sup> With regard to medical devices, enforcement complies with the Medical Devices Ordinance of 17 October 2001<sup>12</sup>.

<sup>2</sup> With regard to substances, preparations and articles relating to systems and activities used for national defence, Art. 96 of the Chemicals Ordinance of 18 May 2005<sup>13</sup> (ChemO) applies as appropriate.

<sup>12</sup> SR 812.213

<sup>13</sup> SR 813.11

<sup>3</sup> With regard to fertilisers, the rules on enforcement in the Fertiliser Ordinance of 10 January 2001<sup>14</sup> also apply.

**Art. 17** Import and export control

<sup>1</sup> Customs offices must check, at the request of the FOPH, the FOAG or the FOEN, that substances, preparations and articles comply with the provisions of this Ordinance.<sup>15</sup>

<sup>2</sup> If they suspect an infringement, they are authorised to retain the goods at the border and consult the other enforcement authorities under this Ordinance. These authorities are responsible for carrying out further investigations and taking the required measures.

**Art. 18** Supervision

<sup>1</sup> At the request of the FOPH, the FOAG or the FOEN or by means of random sampling, the cantonal authorities responsible for enforcement carry out checks on the substances, preparations and articles present on the market at the premises of manufacturers, traders and professional or commercial users. They check whether the substances, preparations and articles comply with the provisions in the annexes, in particular with regard to their composition, labelling and information for purchasers.

<sup>2</sup> They also check whether the use of these substances, preparations and articles complies with the requirements of this Ordinance.

<sup>3</sup> If a substance, preparation or article checked or the use made of it gives rise to complaints, the authority responsible for carrying out checks must inform the authorities responsible for the rulings under Art. 19. If these are cantonal authorities, it must also inform the FOPH and the FOEN and, in the case of complaints relating to plant protection products or fertilisers, the FOAG.

**Art. 19** Rulings arising from supervision

If a check reveals that provisions of this Ordinance have been infringed, the federal authority or the authority of the canton in which the manufacturer, trader or user resides or has a registered office rules on the measures to be taken.

**Art. 20** Technical advice on the use of fertilisers and plant protection products

<sup>1</sup> The cantons arrange for the provision of technical advice on the use of fertilisers and plant protection products; they must secure the financing of this advice.

<sup>2</sup> They may order that persons who use fertilisers or plant protection products in polluted areas for commercial or professional purposes:

- a. must seek the technical advice offered for this purpose;

<sup>14</sup> SR 916.171

<sup>15</sup> Amended in accordance with Annex 4 No. 45 of the Customs Ordinance of 1 Nov. 2006, in force since 1 May 2007 (SR 631.01).

- b. must provide the operating data required for this technical advice.

**Art. 21** Confidentiality of data and data exchange

The confidentiality of data and data exchange, both between the different enforcement authorities and between Switzerland and abroad, is governed by Articles 85 to 88 of the ChemO<sup>16</sup>.

**Art. 22** Fees

The obligation to pay fees and the calculation of fees for administrative actions by the federal enforcement authorities in accordance with this Ordinance is based on the Chemicals Fees Ordinance of 18 May 2005<sup>17</sup>.

## Chapter 4: Final Provisions

**Art. 23** Transitional provisions

<sup>1</sup> The transitional provisions on certificates under Articles 7 to 12 are issued by the responsible Federal Department.

<sup>2</sup> Exemptions granted on the basis of the Substances Ordinance of 9 June 1986<sup>18</sup> remain valid until their expiry date.

<sup>3</sup> Applications for exemptions which are pending when this Ordinance comes into force are assessed according to this Ordinance.

**Art. 24** Commencement

This Ordinance comes into force on 1 August 2005.

<sup>16</sup> SR 813.11

<sup>17</sup> SR 813.153.1

<sup>18</sup> [AS 1986 1254, 1988 911, 1989 270 2420, 1991 1981, 1992 1749, 1994 678, 1995 1491 Art. 440 No. 2 4425 Annex 1 No. II 14 5505, 1997 697, 1998 2009 2863 Annex 5 No. 3, 1999 39 1362 2045 Annex 2 No. 3, 2000 703 No. II 9 1949 Art. 22 para. 2, 2001 522 Annex No. 2 1758 3294 No. II 6, 2003 940 1345 5421 No. II 2, 2004 3209 4037 No. I 7. AS 2005 2695 No. I 1]

**1 Provisions relating to specific substances**

- 1.1 Halogenated organic compounds
- 1.2 Short-chain chlorinated paraffins
- 1.3 Aliphatic chlorinated hydrocarbons
- 1.4 Substances that deplete the ozone layer
- 1.5 Substances stable in air
- 1.6 Asbestos
- 1.7 Mercury
- 1.8 Octylphenol, nonylphenol and their ethoxylates
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- 1.10 Substances classified as carcinogenic, mutagenic or toxic to reproduction
- 1.11 Dangerous liquid substances
- 1.12 Benzene and related compounds
- 1.13 Nitroaromates, aromatic amines and azo dyes
- 1.14 Di- $\mu$ -oxo-di-n-butyl-stanniohydroxyborane (DBB)

**2 Provisions relating to groups of preparations and articles**

- 2.1 Laundry detergents
- 2.2 Cleaning products
- 2.3 Solvents
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- 2.5 Plant protection products
- 2.6 Fertilisers
- 2.7 De-icing products
- 2.8 Paints and varnishes
- 2.9 Plastics and additives
- 2.10 Refrigerants
- 2.11 Extinguishing agents
- 2.12 Aerosol dispensers
- 2.13 Fuel additives
- 2.14 Condensers and transformers
- 2.15 Batteries and accumulators
- 2.16 Special provisions relating to metals
- 2.17 Wood-based materials

*Annex 1*

## Provisions relating to specific substances

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*Annex 1.1<sup>19</sup>*  
(Art. 3)

### Halogenated organic compounds

#### 1 Prohibitions

##### 1.1 Substances and preparations

It is prohibited to manufacture, place on the market, import in a private capacity, or use:

- a. halogenated organic compounds in accordance with Number 3;
- b. substances and preparations that contain halogenated organic compounds in accordance with Number 3 that are not merely unavoidable impurities.

##### 1.2 Articles

The import on a professional or commercial basis of textiles or leather articles containing halogenated organic compounds in accordance with Number 3 is prohibited.

#### 2 Exemptions

<sup>1</sup> The prohibitions in accordance with Number 1.1 do not apply to the following:

- a. use for analysis and research purposes;
- b. monohalogenated and dihalogenated biphenyls, terphenyls and naphthalenes, as well as preparations containing such compounds if they are used exclusively as intermediate products with a view to their complete chemical conversion;
- c. lubricating oils and greases manufactured from waste oils with no more than 1 ppm halogenated biphenyls;

<sup>19</sup> Revised according to No. I 3 of the Ordinance of 15 Dec. 2006, in force since 1 March 2007 (AS 2007 111).

- d. the manufacture of 1,2,4-Trichlorobenzene and of substances and preparations that contain 1,2,4-Trichlorobenzene;
  - e. the placing on the market and the use of 1,2,4-Trichlorobenzene and of substances and preparations that contain 1,2,4-Trichlorobenzene as:
    1. synthetic intermediate products, in particular for the manufacture of 1,3,5-Trinitro-2,4,6-triaminobenzene;
    2. process solvents in closed systems in chlorination reactions.
  - f. the placing on the market and the use of substances and preparations with a maximum of 0.1 per cent 1,2,4-Trichlorobenzene by weight;
- <sup>2</sup> The prohibition in accordance with Number 1.2 does not apply to the import of textiles and leather articles which only undergo finishing or re-packaging in Switzerland and are then re-exported in their entirety.

### 3 List of prohibited halogenated organic compounds

- a. *Aliphatic monocyclic systems*
  - hexachlorocyclohexane (HCH, all isomers), with the exception of gamma-hexachlorocyclohexane (lindane, CAS no.<sup>20</sup> 58-89-9) in medicinal products.
- b. *Aliphatic polycyclic systems*
  - aldrin (CAS no. 309-00-2);
  - chlordane (CAS no. 57-74-9);
  - dieldrin (CAS no. 60-57-1);
  - endrin (CAS no. 72-20-8);
  - heptachlor (CAS no. 76-44-8) and heptachlor epoxide (CAS no. 1024-57-3);
  - isodrin (CAS no. 465-73-6);
  - kelevan (CAS no. 4234-79-1);
  - chlordecone (kepone, CAS no. 143-50-0);
  - mirex (CAS no. 2385-85-5);
  - telodrin (CAS no. 297-78-9);
  - strobane (CAS no. 8001-50-1) and toxaphene (CAS no. 8001-35-2).
- c. *Halogenated Benzenes*
  - 1,2,4-Trichlorobenzene (CAS-No. 120-82-1)<sup>21</sup>
  - Hexachlorobenzene (CAS-No. 118-74-1)

<sup>20</sup> Number assigned by the Chemical Abstracts Service (CAS) to simplify the identification of substances.

<sup>21</sup> In force since 1 Sept. 2008.

- d. *Halogenated biphenyls, terphenyls, naphthalenes and diarylalkanes*
- halogenated biphenyls of the  $C_{12}H_nX_{10-n}$  type; X = halogen,  $0 \leq n \leq 9$
  - halogenated terphenyls of the  $C_{18}H_nX_{14-n}$  type; X = halogen,  $0 \leq n \leq 13$
  - halogenated naphthalenes of the  $C_{10}H_nX_{8-n}$  type; X = halogen,  $0 \leq n \leq 7$
  - monomethyltetrachlorodiphenylmethane (CAS no. 76253-60-6);
  - monomethyldichlorodiphenylmethane;
  - monomethyldibromodiphenylmethane (CAS no. 99688-47-8).
- e. *DDT and similar compounds*
- dichlorodiphenyltrichloroethane (DDT);
  - dichlorodipenyldichloroethylene (DDE);
  - dichlorodipenyldichloroethane (DDD);
  - methoxychlor (CAS no. 72-43-5);
  - perthane (CAS no. 72-56-0);
  - dicofol (CAS no. 115-32-2).
- f. *Trichlorophenoxy fatty acids and their derivatives*
- 2,4,5-trichlorophenoxy acetic acid (CAS no. 93-76-5) and its salts, and also 2,4,5- trichlorophenoxy acetyl compounds;
  - 2-(2,4,5-trichlorophenoxy) propionic acid (CAS no. 93-72-1) and its salts and also 2-(2,4,5-trichlorophenoxy) propionyl compounds.
- g. *Polychlorinated phenols and their derivatives*
- pentachlorophenol (PCP, CAS no. 87-86-5) and its salts and also pentachlorophenoxy compounds;
  - tetrachlorophenols (TeCP) and their salts and also tetrachlorophenoxy compounds.
- h. *Quintozene* (CAS no. 82-68-8)

## **Short-chain chlorinated paraffins**

### **1 Definition**

Paraffin chlorination products containing 10 to 13 carbon atoms (alkanes, C<sub>10</sub>- C<sub>13</sub>, chloro-) are short-chain chlorinated paraffins.

### **2 Prohibition**

It is prohibited to place on the market the following product types if they contain more than 1% of short-chain chlorinated paraffins by weight:

- a. paints and varnishes;
- b. sealants;
- c. plastics and rubbers;
- d. textiles;
- e. leather processing products;
- f. metal working products.

### **3 Transitional provision**

The prohibition in accordance with Number 2 comes into force on 1 August 2006.

*Annex 1.3<sup>22</sup>*  
(Art. 3)

## Aliphatic chlorinated hydrocarbons

### 1 Prohibitions

<sup>1</sup> It is prohibited to place on the market and use the following substances:

- a. chloroform (CAS no. 67-66-3);
- b. 1,1,2-trichloroethane (CAS no. 79-00-5);
- c. 1,1,2,2-tetrachloroethane (CAS no. 79-34-5);
- d. 1,1,1,2-tetrachloroethane (CAS no. 630-20-6);
- e. pentachloroethane (CAS no. 76-01-7);
- f. 1,1-dichloroethylene (CAS no. 75-35-4).

<sup>2</sup> It is also prohibited to place on the market and use substances and preparations containing 0.1% or more, by weight, of the substances under paragraph 1.

<sup>3</sup> It is prohibited to use hexachloroethane (CAS no. 67-72-1) in the manufacturing or processing of non-ferrous metals.

### 2 Exemptions

The prohibitions in accordance with Number 1 paragraphs 1 and 2 do not apply to:

- a. medicinal products;
- b. cosmetics which according to DHA provisions, pursuant to Art. 35 paragraph 4 letter a of the Ordinance of 23. November 2005<sup>23</sup> on Foodstuffs and Utility Articles, may contain substances in accordance with Number 1 paragraphs 1 and 2;
- c. substances and preparations intended for use in closed systems within the framework of industrial processes;
- d. substances and preparations intended for analysis and research.

<sup>22</sup> Revised according to Annex 2 No. II of the Ordinance on Foodstuffs and Utility Articles of 23 Nov. 2005, in force since 1 Jan. 2006 (SR **817.02**).

<sup>23</sup> SR **817.02**

### **3 Special labelling**

<sup>1</sup> The packaging of substances and preparations in accordance with Number 2 letter c must bear the inscription: "For use in industrial installations only".

<sup>2</sup> This marking must appear in at least two official languages; it must be clearly legible and indelible.

*Annex 1.4<sup>24</sup>*  
(Art. 3)

## Substances that deplete the ozone layer

### 1 Definitions

<sup>1</sup> The following are substances that deplete the ozone layer:

- a. all fully halogenated chlorofluorocarbons containing a maximum of three carbon atoms (CFCs), such as:
  1. trichlorofluoromethane (CFC 11);
  2. dichlorodifluoromethane (CFC 12);
  3. tetrachlorodifluoroethane (CFC 112);
  4. trichlorotrifluoroethane (CFC 113);
  5. dichlorotetrafluoroethane (CFC 114);
  6. chloropentafluoroethane (CFC 115);
- b. all partially halogenated chlorofluorocarbons containing a maximum of three carbon atoms (HCFC), such as:
  1. chlorodifluoromethane (HCFC 22);
  2. dichlorotrifluoroethane (HCFC 123);
  3. dichlorofluoroethane (HCFC 141),
  4. chlorodifluoroethane (HCFC 142);
- c. all fully halogenated brominated fluorocarbons containing a maximum of three carbon atoms (halons), such as:
  1. bromochlorodifluoromethane (halon 1211);
  2. bromotrifluoromethane (halon 1301),
  3. dibromotetrafluoroethane (halon 2402);
- d. all partially halogenated brominated fluorocarbons containing a maximum of three carbon atoms (HBFC);
- e. 1,1,1-trichloroethane (CAS no. 71-55-6);
- f. carbon tetrachloride (CAS no. 56-23-5);
- g. bromomethane (CAS no. 74-83-9);
- h. bromochloromethane (CAS no. 74-97-5).

<sup>2</sup> Preparations containing substances in accordance with paragraph 1 are substances that deplete the ozone layer if they are found in containers used solely for their transport or storage.

<sup>24</sup> Revised according to Annex 4 No. 45 of the Customs Ordinance of November 1, 2006, in force since May 1, 2007 (SR 631.01).

<sup>3</sup> Substances obtained after re-processing of recovered spent substances that deplete the ozone layer are reclaimed substances that deplete the ozone layer if the spent substances were not chemically altered by the re-processing.

<sup>4</sup> Placing in an open customs warehouse, warehouse, or duty-free warehouse is import.

<sup>5</sup> Removal from an open customs warehouse, warehouse, or duty-free warehouse for despatch abroad is export.

## **2 Manufacturing**

### **2.1 Prohibition**

It is prohibited to manufacture substances that deplete the ozone layer.

### **2.2 Exemption**

The prohibition in accordance with Number 2.1 does not apply to the manufacture of recovered substances that deplete the ozone layer.

## **3 Importation**

### **3.1 Substances**

#### **3.1.1 Prohibition**

It is prohibited to import substances that deplete the ozone layer.

#### **3.1.2 Exemption**

<sup>1</sup> It is permitted to import substances that deplete the ozone layer with a general import permit in accordance with Number 3.1.3:

- a. for the uses in accordance with Number 6.2; and
- b. from states that adhere to the provisions of the Montreal Protocol of 16 September 1987 on substances that deplete the ozone layer<sup>25</sup> and amendments to the Protocol of 29 June 1990<sup>26</sup>, 25 November 1992<sup>27</sup>, 17 September 1997<sup>28</sup> and 3 December 1999<sup>29</sup> (Montreal Protocol) approved by Switzerland.

<sup>25</sup> SR **0.814.021**

<sup>26</sup> SR **0.814.021.1**

<sup>27</sup> SR **0.814.021.2**

<sup>28</sup> SR **0.814.021.3**

<sup>29</sup> SR **0.814.021.4**

<sup>2</sup> For substances according to Number 1 paragraph 1 letters a and c to h, the general import permit is, in addition, issued only within the limits of the quantities and uses authorised by the parties to the Montreal Protocol.

### **3.1.3 General import permit**

#### **3.1.3.1 Principles**

<sup>1</sup> Any person wishing to import substances that deplete the ozone layer in accordance with Number 3.1.2 must apply for authorisation from the FOEN.

<sup>2</sup> This authorisation is issued in the form of a general import permit valid for the specified substances for a maximum period of 18 months; the permit expires at the end of a calendar year and is numbered.

<sup>3</sup> A general import permit entitles its holder to import specific quantities of substances that deplete the ozone layer from specific foreign exporters. It is personal and non-transferable.

<sup>4</sup> Customs clearance is governed by customs legislation.

<sup>5</sup> The person subject to customs control must:

- a. on import, state the general import permit number on the customs declaration; or
- b. on placing in an open customs warehouse, warehouse or duty-free warehouse submit a copy of the general import permit to the customs office.

<sup>6</sup> At the request of the FOEN, the holder of the general import permit must prove that the import has been lawfully made. The FOEN may demand this proof for up to five years after customs clearance.

<sup>7</sup> The FOEN must withdraw the general import permit if the provisions contained therein are infringed by the holder or are no longer being fulfilled.

<sup>8</sup> It must inform the cantons of the allocation and withdrawal of general import permits.

#### **3.1.3.2 Application**

<sup>1</sup> Any person who wishes to obtain a general import permit must submit an application to the FOEN.

<sup>2</sup> The application must state:

- a. the applicant's name and address;
- b. the names and addresses of the foreign exporters;
- c. for each substance being imported, the following information:
  1. its chemical name according to an internationally recognised nomenclature system;

2. its customs tariff number according to the Annexes of the Federal Act of 9 October 1986<sup>30</sup> on Customs Tariffs;
3. the intended quantity, in kilograms;
4. the intended uses.

<sup>3</sup> The FOEN may request further information on the origin of the substances concerned and the intended use thereof.

<sup>4</sup> Applications concerning substances in accordance with Number 1 paragraph 1 letters a and c to h must be submitted at least 14 months before the start of the calendar year in which the import is to take place.

<sup>5</sup> With regard to applications in accordance with paragraph 4, the FOEN decides within two months of receiving the decision of the Conference of the Contracting Parties to the Montreal Protocol on the quantity of a particular substance which may be imported during a particular period for a particular use.

<sup>6</sup> The FOEN decides on complete applications concerning the other substances that deplete the ozone layer within two months.

## **3.2 Preparations and articles**

### **3.2.1 Prohibition**

It is prohibited to import preparations and articles which:

- a. contain substances that deplete the ozone layer;
- b. were manufactured with substances that deplete the ozone layer and are included in an annex to the Montreal Protocol.

### **3.2.2 Exemption**

The prohibition in accordance with Number 3.2.1 does not apply to imports of preparations and articles that may be imported pursuant to the provisions of Annexes 2.3, 2.9, 2.10, 2.11 and 2.12 from countries that adhere to the Montreal Protocol provisions approved by Switzerland.

## **4 Export**

### **4.1 Prohibition**

It is prohibited to export:

- a. substances that deplete the ozone layer;
- b. articles the use of which requires substances that deplete the ozone layer in accordance with Number 1 paragraph 1 letter a, c to f and h.

<sup>30</sup> SR 632.10

## 4.2 Exemption

The prohibition in accordance with Number 4.1 letter a does not apply to exports to countries that adhere to the Montreal Protocol provisions approved by Switzerland.

## 4.3 Export permit

### 4.3.1 Principles

<sup>1</sup> Any person wishing to export substances that deplete the ozone layer in a quantity above a gross weight of 20 kg must apply for authorisation from the FOEN.

<sup>2</sup> This authorisation is issued in the form of an export permit valid for specific substances; the permit is restricted to 12 months and is numbered.

<sup>3</sup> An export permit entitles its holder to export, on one occasion, specific quantities of substances that deplete the ozone layer to a specific foreign importer in a country that adheres to the Montreal Protocol provisions approved by Switzerland. It is personal and non-transferable.

<sup>4</sup> The exported substances must be accompanied by a declaration of origin.

<sup>5</sup> On customs clearance, the person subject to customs control must submit the export permit to the customs office.

<sup>6</sup> At the request of the FOEN, proof must be provided at any time, by submitting the appropriate documents, that the export is lawful. This obligation to provide proof terminates five years after customs clearance.

<sup>7</sup> The FOEN must withdraw the export permit if the provisions contained therein are no longer fulfilled.

<sup>8</sup> It must inform the cantons of the allocation and withdrawal of export permits.

### 4.3.2 Application

<sup>1</sup> Any person wishing to obtain an export permit must apply to the FOEN.

<sup>2</sup> The application must state:

- a. the applicant's name and address;
- b. the names and addresses of the foreign importer;
- c. for each substance being exported, the following information:
  1. its chemical name according to an internationally recognised nomenclature system;
  2. its customs tariff number according to the Annexes of the Federal Act on Customs Tariffs;
  3. the name and address of the previous holder;
  4. the intended quantity, in kilograms.

<sup>3</sup> The FOEN may request further information on the origin of the substances concerned and the intended use thereof.

<sup>4</sup> It makes a decision based on the complete application within a period of two months.

## **5 Notification obligation of importers and exporters**

<sup>1</sup> Importers and exporters must inform the FOEN each year, by 31 March at the latest, of the quantities of substances and preparations that deplete the ozone layer in accordance with Number 1 paragraphs 1 and 2 that have been imported or exported during the previous year.

<sup>2</sup> The data must be subdivided by substance and intended use.

<sup>3</sup> The notification obligation in accordance with paragraphs 1 and 2 applies neither to placing in an open customs warehouse, nor a warehouse, nor a duty-free warehouse, nor to withdrawal from such for despatch abroad.

## **6 Use**

### **6.1 Prohibition**

It is prohibited to use substances that deplete the ozone layer.

### **6.2 Exemptions**

<sup>1</sup> The prohibition in accordance with Number 6.1 does not apply to the use of substances that deplete the ozone layer for the manufacture of preparations or articles whose placing on the market and private import are authorised pursuant to the provisions of Annexes 2.3, 2.9, 2.10, 2.11 and 2.12.

<sup>2</sup> If the state of the art is such that substitution is not possible for substances that deplete the ozone layer or preparations and articles manufactured using these substances, the prohibition in accordance with Number 6.1 does not apply to the use of substances that deplete the ozone layer:

- a. as intermediate products with a view to their complete chemical conversion;
- b. for research or analysis purposes authorised pursuant to Decision X/19 of the Parties to the Montreal Protocol<sup>31</sup>.

<sup>3</sup> On receipt of a justified request, the FOEN may allow temporary exemptions for other uses if:

<sup>31</sup> The text of this Decision may be obtained against payment or consulted free of charge at the Chemicals Notification Authority, 3003 Bern; it may also be accessed on the Internet at [www.cheminfo.ch](http://www.cheminfo.ch).

- a. the state of the art is such that substitution is not possible, either for substances that deplete the ozone layer or for preparations and articles manufactured with these substances, and
- b. the quantity of substances that deplete the ozone layer being used does not exceed the quantity required to achieve the intended purpose.

## **7 Transitional provision**

Preparations and articles manufactured with substances that deplete the ozone layer and included in an Annex to the Montreal Protocol (No. 3.2.1 letter b) may continue to be imported for one year after this Annex to the Montreal Protocol comes into force.

## Substances stable in air

### 1 Definition

<sup>1</sup> The following are substances stable in air:

- a. organic compounds containing fluorine, the vapour pressure of which is at least 0.1 mbar at 20°C or the boiling point of which does not exceed 240°C at 1013.25 mbar, and which have a mean lifetime in air of at least 2 years;
- b. sulphur hexafluoride (CAS no. 2551-62-4);
- c. nitrogen trifluoride (CAS no. 7783-54-2).

<sup>2</sup> The FOEN publishes a list of the commonest substances in accordance with paragraph 1.

<sup>3</sup> Preparations containing substances in accordance with paragraph 1 are regarded as substances stable in air if they are found in containers used solely for their transport or their storage.

<sup>4</sup> Annex 1.4 applies to substances stable in air that deplete the ozone layer.

### 2 Import

#### 2.1 Prohibition

It is prohibited to import preparations and articles containing substances stable in air.

#### 2.2 Exemptions

The prohibition in accordance with Number 2.1 does not apply to the import of preparations and articles:

- a. for the manufacture or maintenance of which the use of substances stable in air is authorised in accordance with Number 4.2;
- b. the import of which is authorised pursuant to the provisions of Annexes 2.3, 2.9, 2.10, 2.11 and 2.12.

### **3 Notification obligation of importers and exporters**

#### **3.1 Principle**

<sup>1</sup> Importers and exporters must inform the FOEN each year, by 31 March at the latest, of the quantities of substances stable in air and preparations containing substances stable in air in accordance with Number 1 paragraphs 1 and 3 which have been imported or exported during the previous year.

<sup>2</sup> The data must be subdivided by substance and intended use.

#### **3.2 Exemption**

Importers and exporters who have concluded a sectoral agreement within the meaning of Art. 41a of the Federal Act on the Protection of the Environment are exempt from the notification obligation in accordance with Number 3.1 if this agreement guarantees that the FOEN will be kept informed.

### **4 Use**

#### **4.1 Prohibition**

It is prohibited to use substances stable in air.

#### **4.2 Exemptions**

<sup>1</sup> The prohibition in accordance with Number 4.1 does not apply to the following uses of substances stable in air:

- a. the manufacture of preparations or articles the placing on the market and private import of which are authorised pursuant to the provisions of Annexes 2.3, 2.9, 2.10, 2.11 and 2.12;
- b. the manufacture of semi-conductors if emissions are limited in accordance with the state of the art and represent not more than 5% of the quantity of substances being used;
- c. as an intermediate product with a view to their complete chemical conversion if emissions are limited in accordance with the state of the art and represent not more than 5% of the quantity of substances being used;
- d. for research and analysis purposes.

<sup>2</sup> Furthermore, without prejudice to paragraph 3, the prohibition in accordance with Number 4.1 does not apply to the following uses of sulphur hexafluoride:

- a. the manufacture of the constituent of particle accelerators under high voltage whereby the compartment which is under hexafluoride atmosphere is continuously monitored or hermetically sealed, in particular X-ray equipment, electronic microscopes and industrial particle accelerators used in the manufacture of plastics;
- b. the manufacture of mini-relays;
- c. the manufacture of electrical distribution installations at voltages assigned in accordance with the International Electrotechnical Commission (IEC) exceeding 1 kV, whereby the compartment which is under hexafluoride atmosphere is continuously monitored or hermetically sealed in accordance with the standard IEC 60694 issue 2002-01<sup>32</sup>;
- d. as an inert gas in aluminium and magnesium foundries;
- e. for the maintenance and operation of appliances and installations authorised to contain sulphur hexafluoride.

<sup>3</sup> Exemptions in accordance with paragraph 2 apply provided that:

- a. the state of the art is such that substitution of sulphur hexafluoride is not possible;
- b. the quantity of sulphur hexafluoride used does not exceed the quantity required to achieve the intended purpose;
- c. sulphur hexafluoride emissions are kept as low as possible throughout the life cycle of the intended use;
- d. a system is in operation to guarantee that the disposal of sulphur hexafluoride will not represent an environmental hazard.

<sup>4</sup> The FOEN issues the enforcement authorities recommendations on the state of the art in relation to the use of sulphur hexafluoride in the manufacture of electrical distribution installations in accordance with paragraph 2 letter c. It must consult the groups concerned beforehand.

<sup>5</sup> On receipt of a justified request, the FOEN may allow temporary exemptions for other uses of substances stable in air if:

- a. the state of the art is such that substitution is not possible, either for substances stable in air or for preparations and articles manufactured with these substances;
- b. the quantity of substances stable in air being used does not exceed the quantity required to achieve the intended purpose;
- c. the emissions of substances stable in air are as low as possible throughout the life cycle of the intended use.

<sup>32</sup> This technical standard is available from the Swiss Standards Association, Bürglistrasse 29, 8400 Winterthur.

### **4.3 Notification obligation relating to sulphur hexafluoride**

#### **4.3.1 Principle**

<sup>1</sup> Anyone commissioning or decommissioning an appliance or installation containing more than 1 kg of sulphur hexafluoride must inform the FOEN accordingly.

<sup>2</sup> The communication must contain the following data:

- a. the type and site of the appliance or installation;
- b. the quantity of sulphur hexafluoride contained therein;
- c. the commissioning or decommissioning date;
- d. in the case of decommissioning: the recipient of the sulphur hexafluoride.

#### **4.3.2 Exemptions**

<sup>1</sup> Members of a sectoral agreement within the meaning of article 41a of the Federal Act relating to the Protection of the Environment, relating to sulphur hexafluoride, are exempt from the notification obligation in accordance with Number 4.3.1 if this agreement guarantees that the FOEN is kept informed.

<sup>2</sup> The owners of appliances or installations containing more than 1 kg of sulphur hexafluoride in sealed pressurised systems in accordance with IEC standard 60694 issue 2002-01<sup>33</sup> are also exempt from the notification obligation in accordance with Number 4.3.1 if one party to a sectoral agreement takes responsibility for the notification.

## **5 Special labelling**

The manufacturer of an appliance or installation containing more than 1 kg of sulphur hexafluoride must label the appliance or the installation clearly and indelibly, indicating the presence of this substance and its quantity.

<sup>33</sup> This technical standard is available from the Swiss Standards Association, Bürglistrasse 29, 8400 Winterthur.

## Asbestos

### 1 Definitions

<sup>1</sup> The following fibrous natural silicates are asbestos:

- a. actinolite (CAS no. 77536-66-4);
- b. amosite (CAS no. 12172-73-5);
- c. anthophyllite (CAS no. 77536-67-5);
- d. chrysotile (CAS no. 12001-29-5);
- e. crocidolite (CAS no. 12001-28-4);
- f. tremolite (CAS no. 77536-68-6).

<sup>2</sup> Preparations with an asbestos content that is not restricted to unavoidable impurities are deemed to contain asbestos.

<sup>3</sup> Articles with an asbestos content that is not restricted to unavoidable impurities are deemed to contain asbestos, as are appliances and equipment such as vehicles, machines or utensils with components that contain asbestos.

### 2 Prohibitions

It is prohibited:

- a. to use asbestos;
- b. to place preparations and articles containing asbestos on the market;
- c. to export preparations and articles containing asbestos.

### 3 Exemptions

<sup>1</sup> On receipt of a justified request and in agreement with the FOPH, the FOEN may allow exemptions from the prohibitions in accordance with Number 2 letters a and b if:

- a. the state of the art is such that substitution of asbestos is not possible and the quantity of asbestos used does not exceed the quantity required for the intended use; or
- b. the technical characteristics of the appliance or equipment are such that it is essential to use spare parts containing asbestos.

<sup>2</sup> On receipt of a justified request and in agreement with the FOPH, the FOEN may allow exemptions from the prohibitions in accordance with Number 2 letter b for appliances and equipment that have components that contain asbestos if:

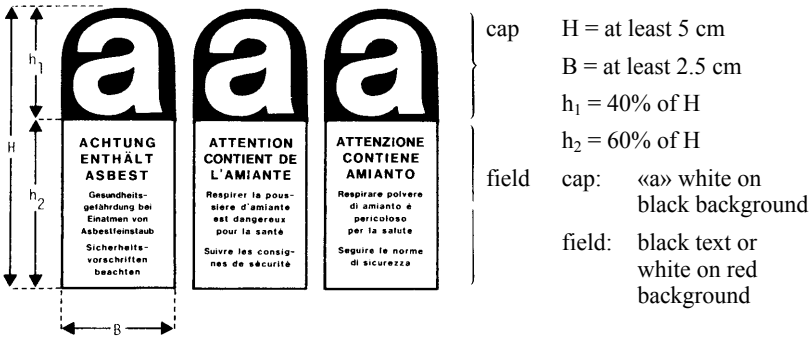
- a. these machines were commissioned before 1 March 1990 and
- b. the items only contain small quantities of asbestos, solely in a bound form.

<sup>3</sup> On receipt of a justified request and agreement with the FOPH, the FOEN may allow exemptions from the prohibitions in accordance with Number 2 letter c for appliances and equipment that have components that contain asbestos if it is only in small quantities and solely in a bound form.

#### 4 Special labelling

<sup>1</sup> The manufacturer is authorised to place asbestos on the market only if the packaging is marked with the following indications:

- a. the name of the manufacturer;
- b. a warning about the dangers of asbestos to man and the environment and the required protection measures; it must appear in at least two official languages and comply with the following model:



<sup>2</sup> The marking of preparations and articles containing asbestos must also include the indications referred to in paragraph 1. If the indications are printed directly onto the preparation or article, the cap and the field may be a single colour provided that it contrasts clearly with the background. In this case, the texts may also be combined under a single headline, arranged either horizontally or vertically.

<sup>3</sup> If a preparation or an article has components containing asbestos, these components must have clearly visible marking, including the indications referred to in paragraph 1.

<sup>4</sup> If, for important reasons, it is impossible to mark a preparation or an article in accordance with the provisions in paragraphs 1 to 3, on receipt of a justified request,

and in agreement with the FOPH, the FOEN may allow a temporary exemption. The purchaser must then be informed of the required indications in an equivalent form.

## **5 Instructions for use**

If a preparation or an article containing asbestos is converted within the context of its intended use and if this operation risks the release of fine dust, the manufacturer may supply this preparation or this article only on condition that the instructions for use include, in at least two official languages:

- a. mention that inappropriate use may result in a pulmonary disorder and increase the risks of cancer; and
- b. recommendations relating to the required precautionary measures.

## **6 Transitional provisions**

<sup>1</sup> The prohibition in accordance with Number 2 letter a does not apply to the use of asbestos for the manufacture of diaphragms intended for existing electrolysis installations.

<sup>2</sup> The prohibitions in accordance with Number 2 letters b and c do not apply to diaphragms containing asbestos and intended for use in existing electrolysis installations:

- a. until these installations reach the end of their service life; or
- b. until asbestos-free substitutes become available.

## Mercury

### 1 Definition

Preparations and articles containing mercury are preparations and articles that contain elemental mercury or mercury compounds that are not simply unavoidable impurities.

### 2 Prohibitions

The following is prohibited:

- a. the placing of preparations and articles containing mercury on the market by the manufacturer;
- b. the use of elemental mercury, mercury compounds and preparations containing mercury.

### 3 Exemptions

#### 3.1 Placing on the market

<sup>1</sup> The prohibition in accordance with Number 2 letter a does not apply to:

- a. medicinal products;
- b. antiques;
- c. cosmetics in which mercury is permitted by the DHA pursuant to Art. 35 paragraph 4 letter a of the Ordinance of 23 November 2005<sup>35</sup> on Foodstuffs and Utility Articles.

<sup>2</sup> If the state of the art is such that mercury-free substitution is not possible and if the quantity of mercury used does not exceed the quantity required for the intended use, the prohibition in accordance with Number 2 letter a does not apply to:

- a. electrical or electronic equipment in accordance with Art. 3 letter a of Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003<sup>36</sup> on the restriction of the use of certain hazardous sub-

<sup>34</sup> Revised according to Annex 2 No. II of the Ordinance on Foodstuffs and Utility Articles of 23 Nov. 2005, in force since 1 Jan. (SR **817.02**).

<sup>35</sup> SR **817.02**

<sup>36</sup> OJ L 37 of 13.2.2003, p.19. The texts of European Union legal documents mentioned in this Annex may be obtained against payment or consulted free of charge at the Chemicals Notification Authority, 3003 Bern; they may also be accessed on the Internet at [www.cheminfo.ch](http://www.cheminfo.ch).

stances in electrical and electronic equipment covered by categories 8 (medical devices) and 9 (monitoring and control instruments) in Annex IA of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003<sup>37</sup> on waste electrical and electronic equipment, and components for such electrical and electronic equipment;

- b. appliances intended for laboratories and components for such appliances;
- c. electric lighting;
- d. artists' paints intended for restorations;
- e. medical devices for professional use;
- f. preparations intended for laboratories;
- g. auxiliary substances intended for manufacturing processes.

<sup>3</sup> The prohibition in accordance with Number 2 letter a does not apply to the import of preparations and articles containing mercury which only undergo finishing or re-packaging in Switzerland and are then re-exported in their entirety.

<sup>4</sup> The placing on the market of mercury batteries and accumulators is governed by Annex 2.15.

### 3.2 Use

<sup>1</sup> The prohibition in accordance with Number 2 letter b does not apply to:

- a. the use of mercury in laboratories;
- b. the use of mercury for research purposes;
- c. the use of mercury for the manufacture of preparations and articles containing mercury, the placing on the market of which is authorised in accordance with Number 3.1;
- d. the use of preparations containing mercury, the placing on the market of which is authorised in accordance with Number 3.1.

<sup>2</sup> If the state of the art is such that mercury-free substitution is not possible and if the quantity of mercury used does not exceed the quantity required, mercury may be used:

- a. for medical devices for professional use;
- b. as an auxiliary substance in manufacturing processes if it is not present in the final product.

### 3.3 Other exemptions

On receipt of a justified request and in agreement with the FOPH, the FOEN may grant further exemptions if:

<sup>37</sup> OJ L 37 of 13.2.2003, p.24.

- a. the state of the art is such that mercury-free substitution is not possible; and
- b. the quantity of mercury used does not exceed the quantity required.

#### **4 Transitional provisions**

<sup>1</sup> By way of derogation from Number 2 letter a, the manufacturer continues to be authorised to place on the market measuring or control instruments containing mercury until 30 June 2006, provided that they do not come under the items specified in Number 3.1 paragraph 2 letter a or b.

<sup>2</sup> The prohibition under Number 2 letter b does not apply to the use of mercury for the manufacture of appliances under paragraph 1 until 30 June 2006.

<sup>3</sup> With regard to the use of mercury in existing chlorine manufacture installations, the Federal Department responsible for the protection of the environment specifies the date on which the prohibition in accordance with Number 2 letter b comes into force in accordance with the commencement date of corresponding legislation in the European Union.

<sup>4</sup> On request, operators of installations under paragraph 3 must provide the relevant cantonal enforcement authority with a balance as to mercury by weight.

*Annex 1.8<sup>38</sup>*  
(Art. 3)

## Octylphenol, nonylphenol and their ethoxylates

### 1 Prohibitions

<sup>1</sup> It is prohibited to place the following product types on the market if their content of octylphenol (molecular formula  $C_{14}H_{22}O$ ), nonylphenol (molecular formula  $C_{15}H_{24}O$ ) or ethoxylates of these is equal to or greater than 0.1 % by weight:

- a. laundry detergents in accordance with Annex 2.1;
- b. cleaning products in accordance with Annex 2.2;
- c. cosmetics in accordance with Art. 35 of the Ordinance of 23 November 2005<sup>39</sup> on Foodstuffs and Utility Articles;
- d. textiles processing products;
- e. leather processing products;
- f. metal working products;
- g. auxiliary products for the manufacture of cellulose and paper;
- h. agricultural teat dips containing these substances as emulsifiers;
- i. biocidal products and plant protection products containing these substances as co-formulants.

<sup>2</sup> It is prohibited to use octylphenol, nonylphenol and their ethoxylates for purposes for which the product types listed in paragraph 1 are intended.

### 2 Exemptions

The prohibitions in accordance with Number 1 do not apply to:

- a. spermicides;
- b. textile and leather processing products if:
  1. their processing does not result in the disposal of octylphenol ethoxylates or nonylphenol ethoxylates in waste water, or
  2. for installations for special treatment, such as degreasing of sheep skin, the process water is pre-treated to remove the organic fraction completely prior to the biological waste water treatment;
- c. metal working products intended for use in closed and controlled systems in which the cleaning liquid is recycled or incinerated.

<sup>38</sup> Revised according to Annex 2 No. II of the Ordinance on Foodstuffs and Utility Articles of 23 Nov. 2005, in force since 1 Jan. 2006 (SR 817.02).

<sup>39</sup> SR 817.02

### 3 Transitional provisions

<sup>1</sup> The prohibition in accordance with Number 1 paragraph 1 applies to the product types specified under Number 1 paragraph 1 letters b to h:

- a. as from 1 August 2006 if they contain nonylphenol or its ethoxylates;
- b. as from 1 August 2008 if they contain octylphenol or its ethoxylates.

<sup>2</sup> Octylphenol ethoxylates and nonylphenol ethoxylates contained as co-formulants in biocidal products or plant protection products with a marketing authorisation granted before 1 August 2005 may continue to be placed on the market until the expiry of this authorisation.

<sup>3</sup> Nonylphenol and its ethoxylates may continue to be used until 31 July 2006 for purposes for which the product types listed in Number 1 paragraph 1 letters b to h are intended.

<sup>4</sup> Octylphenol and its ethoxylates may continue to be used until 31 July 2008 for purposes for which the product types listed in Number 1 paragraph 1 letters b to h are intended.

<sup>5</sup> Octylphenol ethoxylates and nonylphenol ethoxylates may be used as co-formulants for biocidal products or plant protection products in accordance with paragraph 2.

## Flame retardants

### 1 Organophosphorus compounds

#### 1.1 Definition

The following are organophosphorus compounds with a flame retardant effect:

- a. tris(2,3-dibromopropyl) phosphate (CAS no. 126-72-7);
- b. tris(aziridinyl)phosphine oxide (CAS no. 545-55-1).

#### 1.2 Prohibition

It is prohibited for the manufacturer to place on the market textiles containing substances in accordance with Number 1.1 which are intended to be worn directly or indirectly next to the skin (clothing, wigs, fancy dress, etc.) or to furnish or carpet room interiors (bed linen, tablecloths, furniture fabrics, carpets, curtains, etc.).

### 2 Brominated biphenyls and diphenylethers

#### 2.1 Definitions

<sup>1</sup> The following are brominated biphenyls and diphenylethers with a flame retardant effect:

- a. polybrominated biphenyls (PBBs) with the molecular formula  $C_{12}H_{10-n}Br_n$ , where  $2 \leq n \leq 10$ ;
- b. pentabromodiphenylether (pentaBDE) with the molecular formula  $C_{12}H_5Br_5O$ ;
- c. octabromodiphenylether (octaBDE) with the molecular formula  $C_{12}H_2Br_8O$ ;
- d. decabromodiphenylether (decaBDE) with the molecular formula  $C_{12}Br_{10}O$ .

<sup>2</sup> Substances under paragraph 1 letters b to d also include congeners produced as by-products during the manufacturing process.

#### 2.2 Prohibitions

##### 2.2.1 Polybrominated biphenyls (PBBs)

<sup>1</sup> It is prohibited for new articles in the following categories to be placed on the market if their parts that are treated with flame retardants have a content of PBB exceeding 0.1% by weight:

- a. electrical or electronic equipment in accordance with Art. 3 letter a of Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003<sup>40</sup> on the restriction of the use of certain hazardous substances in electrical and electronic equipment (Directive 2002/95/EC) covered by the categories mentioned in Annex IA of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003<sup>41</sup> on waste electrical and electronic equipment (Directive 2002/96/EC);
- b. household luminaires;
- c. spare parts for articles under letters a and b.

<sup>2</sup> The prohibition in accordance with paragraph 1 does not apply to electrical and electronic equipment covered by categories 8 (medical devices) and 9 (monitoring and control instruments) in Annex IA of Directive 2002/96/EC, or to replacement parts for such equipment.

### **2.2.2 Pentabromodiphenylether (pentaBDE) and octabromodiphenylether (octaBDE)**

<sup>1</sup> It is prohibited to place on the market and to use pentaBDE and octaBDE or substances and preparations with a pentaBDE or octaBDE content equal to or greater than 0.1% by weight, except for analysis and research purposes.

<sup>2</sup> It is prohibited for new articles to be placed on the market if their parts that are treated with flame retardants have a content of pentaBDE or octaBDE exceeding 0.1% by weight.

### **2.2.3 Decabromodiphenylether (decaBDE)**

<sup>1</sup> It is prohibited for new articles in the following categories to be placed on the market if their parts that are treated with flame retardants have a content of decaBDE exceeding 0.1% by weight.

- a. electrical or electronic equipment in accordance with Art. 3 letter a of Directive 2002/95/EC covered by the categories mentioned in Annex IA of Directive 2002/96/EC;
- b. household luminaires;
- c. spare parts for articles under letters a and b.

<sup>2</sup> The prohibition in accordance with paragraph 1 does not apply to:

<sup>40</sup> OJ L 37 of 13.2.2003, p.19. The texts of European Union legal documents mentioned in this Annex may be obtained against payment or consulted free of charge at the Chemicals Notification Authority, 3003 Bern; they may also be accessed on the Internet at [www.cheminfo.ch](http://www.cheminfo.ch).

<sup>41</sup> OJ L 37 of 13.2.2003, p.24

- a. electrical and electronic equipment covered by categories 8 (medical devices) and 9 (monitoring and control instruments) in Annex IA of Directive 2002/96/EC, or to spare parts for such equipment;
- b. other items of equipment in accordance with paragraph 1 letters a and b which contain decaBDE, and spare parts for these if, according to the state of the art, there is no substitute available.

<sup>3</sup> The FOEN issues the enforcement authorities with recommendations on the state of the art in relation to paragraph 2 letter b for. In this connection it relies especially on the results of the evaluation procedure under item 10 of the Annex to Directive 2002/95/EC.

### **3 Transitional provisions**

<sup>1</sup> The prohibitions in accordance with Number 2.2.1 to 2.2.3 do not apply to the following articles placed on the market for the first time before 1 July 2006:

- a. electrical and electronic equipment;
- b. household luminaires;
- c. spare parts for articles under letters a and b.

<sup>2</sup> The prohibitions in accordance with Number 2.2.1 paragraph 1 letter c and Number 2.2.3 paragraph 1 letter c do not apply to spare parts for articles under paragraph 1 letters a and b.

<sup>3</sup> The prohibitions on the marketing and use of pentaBDE and octaBDE in accordance with Number 2.2.2 paragraph 1 do not apply to the manufacture of spare parts for articles under paragraph 1 letters a and b.

<sup>4</sup> Until 31 March 2006, the prohibitions on the marketing and use of pentaBDE in accordance with Number 2.2.2 paragraph 1 do not apply to the manufacture of aircraft emergency evacuation systems.

<sup>5</sup> The prohibition in accordance with Number 2.2.2 paragraph 2 does not apply to:

- a. spare parts for articles under paragraph 1 letters a and b;
- b. aircraft emergency evacuation systems which contain pentaBDE, until 31 March 2006.

*Annex 1.10<sup>42</sup>*  
(Art. 3)

## Substances classified as carcinogens, mutagens or toxic to reproduction

### 1 Definitions

<sup>1</sup> Category 1 or 2 carcinogens are substances which, according to the criteria set out in Annex VI section 4 of Directive 67/548/EEC of the Council of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances<sup>43</sup>:

- a. must be classified as “carcinogen category 1” or “carcinogen category 2”;
- b. must at least be labelled as “toxic (T)”;
- c. must be labelled with risk phrases R 45 or R 49 in accordance with Annex 1 Number 2 of the Ordinance of 18 May 2005<sup>44</sup> on Chemical Products.

<sup>2</sup> Category 1 or 2 mutagens are substances which, according to the criteria set out in Annex VI section 4 of Directive 67/548/EEC:

- a. must be classified as “mutagen category 1” or “mutagen category 2”;
- b. must be labelled with the risk phrase R 46.

<sup>3</sup> Category 1 or 2 substances toxic to reproduction are substances which, according to the criteria set out in Annex VI section 4 of Directive 67/548/EEC:

- a. must be classified as “toxic to reproduction category 1” or “toxic to reproduction category 2”;
- b. must be labelled with the risk phrases R 60 or R 61.

### 2 Prohibition

<sup>1</sup> It is prohibited to supply substances classified as carcinogenic, mutagenic or toxic to reproduction of category 1 or 2, or substances and preparations containing them, to the general public, if these substances:

- a. are included in Annex I of Directive 67/548/EEC. In the event of any changes, the FOPH designates the particular version in force with the

<sup>42</sup> Revised in accordance with Annex 2 No. II 2 of the Ordinance on Foodstuffs and Utility Articles of 23 Nov. 2005, in force since 1 Jan. 2006 (SR **817.02**)

<sup>43</sup> OJ L 196 of 16.8.1967, p.1, last amended by Directive 2004/73/EC (OJ L 152 of 30.4.2004, p.1, revised in OJ L 216 of 16.6.2004, p.3 and OJ L 236 of 7.7.2004, p.18). The texts of European Union legal documents mentioned in this Annex may be obtained against payment or consulted free of charge at the Chemicals Notification Authority, 3003 Bern; they may also be accessed on the Internet at [www.cheminfo.ch](http://www.cheminfo.ch).

<sup>44</sup> SR **813.11**

agreement of the FOEN and the State Secretariat for Economic Affairs (SECO);

- b. are included in Annex I of Directive 76/769/EEC of the Council of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations<sup>45</sup>; and
- c. have a content by weight exceeding the concentration stipulated:
  1. in Annex I of Directive 67/548/EEC, or
  2. in Annex II, Part B, no. 6, tables VI and VI A of Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 on the approximation of laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous substances<sup>46</sup>, if Annex I of Directive 67/548/EEC does not contain a concentration limit value.

<sup>2</sup> ...

### **3 Exemptions**

<sup>1</sup> The prohibition in accordance with Number 2 does not apply to:

- a. medicinal products;
- b. artists' paints;
- c. motor fuels.

<sup>2</sup> The Ordinance of 23. November 2005<sup>47</sup> on Foodstuffs and Utility Articles applies to substances classified as carcinogenic, mutagenic or toxic to reproduction which are contained in cosmetics.

### **4 Special labelling**

<sup>1</sup> The packaging of substances and preparations subject to the prohibition in accordance with Number 2 must bear the inscription: "Restricted to professional users".

<sup>2</sup> This marking must appear in at least two official languages, be clearly legible and indelible.

<sup>45</sup> OJ L 262 of 27.9.1976, p.201, last amended by the Directives:

– 2003/36/EC (OJ. L 156 of 25.6.2003, p. 26)

– 2005/90/EC (OJ. L 33 of 4.2.2006, p. 28).

<sup>46</sup> OJ L 200 of 30.7.1999, p.1, last amended by Directive 2001/60/EC (OJ L 226 of 22.8.2001, p.5).

<sup>47</sup> SR **817.02**

## **Dangerous liquid substances**

### **1 Definition**

Liquid substances and preparations possessing one of the properties listed in Articles 4 and 5 of the Ordinance on Chemical Products of 18 May 2005<sup>48</sup> (ChemO) are dangerous liquid substances and preparations.

### **2 Prohibitions**

<sup>1</sup> It is prohibited to place on the market dangerous liquid substances and preparations contained in:

- a. ornamental objects, intended to produce light or colour effects by means of a phase change;
- b. trick and joke objects;
- c. other games and objects that, in addition to their primary use as a game, may also have an ornamental aspect.

<sup>2</sup> It is prohibited to add colouring agents, except for fiscal reasons, or perfumes, to dangerous liquid substances and preparations:

- a. which present an aspiration hazard and are labelled with the risk phrase R 65 in accordance with Annex I Number 2.1 of the Ordinance on Chemical Products;
- b. which can be used as a fuel in decorative lamps; and
- c. which are placed on the market in packaging of a capacity of 15 litres or less.

### **3 Special labelling**

<sup>1</sup> The packaging of dangerous liquid substances and preparations in accordance with Number 2 paragraph 2 must bear the inscription: "Keep lamps filled with this liquid out of the reach of children".

<sup>2</sup> This marking must appear in at least two official languages, be clearly legible and indelible.

<sup>48</sup> SR 813.11

*Annex 1.12<sup>49</sup>*  
(Art. 3)

## **Benzene and related compounds**

### **1 Benzene**

#### **1.1 Prohibitions**

<sup>1</sup> It is prohibited to place on the market and to use benzene (CAS no. 71-43-2).

<sup>2</sup> It is also prohibited to place on the market and to use any substances or preparations containing 0.1% or more of benzene by weight.

#### **1.2 Exemptions**

<sup>1</sup> The prohibitions in accordance with Number 1.1 do not apply to the use of benzene or substances and preparations containing benzene:

- a. in closed systems in industrial processes;
- b. for analysis and research purposes.

<sup>2</sup> With regard to petrol, the provisions in the Ordinance of 16 December 1985<sup>50</sup> on Air Pollution Control apply.

### **2<sup>51</sup> Toluene**

It is prohibited to place on the market and use toluene (CAS-No. 108-88-3) and preparations containing 0.1 per cent or more toluene by weight in adhesives and spray paints that are intended for supply to general public.

<sup>49</sup> Amended in accordance with No. 12 of the Ordinance of 15 Dec. 2006, in force since 1 March 2007 (AS **2007 111**).

<sup>50</sup> SR **814.318.142.1**

<sup>51</sup> In force from 1 Sept. 2008.

*Annex 1.13*<sup>52</sup>  
(Art. 3)

## Nitroaromates, aromatic amines and azo dyes

### 1 Definition

Azo dye containing the following compounds is blue dye:

- a. disodium-(6-(4-anisidino)-3-sulphonato-2-(3,5-dinitro-2-oxidophenylazo)-1-naphtholato)(1-(5-chloro-2-oxidophenylazo)-2-naphtholato)chromate(1-) (molecular formula:  $C_{39}H_{23}ClCrN_7O_{12}S_2Na$ ; CAS no. 118685-33-9); and
- b. trisodium bis(6-(4-anisidino)-3-sulphonato-2-(3,5-dinitro-2-oxidophenylazo)-1-naphtholato)chromate(1-) (molecular formula:  $C_{46}H_{30}CrN_{10}O_{20}S_2.3Na$ ).

### 2 Prohibitions

<sup>1</sup> It is prohibited to place on the market and to use the following substances:

- a. 2-naphthylamine (CAS no. 91-59-8) and its salts;
- b. 4-aminobiphenyl (CAS no. 92-67-1) and its salts;
- c. benzidine (CAS no. 92-87-5) and its salts;
- d. 4-nitrobiphenyl (CAS no. 92-93-3).

<sup>2</sup> It is also prohibited to place on the market and to use any substances or preparations containing 0.1% or more of the substances specified in paragraph 1 by weight.

<sup>3</sup> It is prohibited to place on the market or to use blue dye or any substance or preparation containing 0.1% or more of blue dye by weight for dyeing textiles or leather goods.

### 3 Exemptions

<sup>1</sup> The prohibition in accordance with Number 2 paragraphs 1 and 2 does not apply to placing on the market and use for analysis and research purposes.

<sup>2</sup> Art. 42 paragraph 3 of the Ordinance of 23. November 2005<sup>53</sup> on Foodstuffs and Utility Articles applies to azo dyes that are used in textiles and leather goods and that may release substances in accordance with Number 2 paragraph 1 or other aromatic amines.

<sup>52</sup> Revised according to Annex 2 No. II of the Ordinance on Foodstuffs and Utility Articles of 23 Nov. 2005, in force since 1 Jan 2006 (SR **817.02**).

<sup>53</sup> SR **817.02**

#### **4 Transitional provision**

The prohibitions in accordance with Number 2 paragraph 3 come into force on 1 August 2006.

*Annex 1.14*  
(Art. 3)

## **Di- $\mu$ -oxo-di-n-butyl-stanniohydroxyborane (DBB)**

### **1 Prohibitions**

<sup>1</sup> It is prohibited to place on the market and to use di- $\mu$ -oxo-di-n-butyl-stanniohydroxyborane (DBB, CAS no. 75113-37-0).

<sup>2</sup> It is also prohibited to place on the market and to use any substances or preparations containing 0.1% or more of DBB by weight.

### **2 Exemptions**

The prohibitions in accordance with Number 1 do not apply:

- a. to the placing on the market and use for analysis and research purposes;
- b. if a conversion process produces a final product containing less than 0.1% of DBB by weight.

## Provisions relating to groups of preparations and articles

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Annex 2.1<sup>54</sup>  
(Art. 3)

### Laundry detergents

#### 1 Definition

<sup>1</sup> Laundry detergents are washing products for textiles and auxiliary washing products for textiles which are removed in waste water. In particular, they include:

- a. combined prewash and laundry detergents;
- b. laundry detergents for delicate textiles and special laundry detergents;
- c. water softeners;
- d. pretreatment products;
- e. bleaching agents; decolorants
- f. fabric softeners.

<sup>2</sup> Products used in special washing and cleaning operations during the manufacture or finishing of textiles are not laundry detergents.

<sup>3</sup> An ingredient is defined as any chemical substance of synthetic or natural origin that is deliberately added to the detergent. For the purposes of this Annex, unless it contains an allergenic fragrance in terms of Number 3 paragraph 4, a perfume, essential oil or colouring agent is deemed to be an individual ingredient.

#### 2 Prohibitions

<sup>1</sup> Laundry detergents must not be placed on the market or manufactured for own use if they contain:

- a. liquid organic halogen compounds such as dichloromethane (CAS no. 75-09-2), trichloroethylene (CAS no. 79-01-6) and tetrachloroethylene (CAS no. 127-18-4);
- b. phosphates;

<sup>54</sup> Revised according to No. 13 of the Ordinance of 15 Dec. 2006 (AS 2007 111), No. 1 of the Ordinance of 13 Feb. 2008 (AS 2008 561) and Annex No. 2 of the Ordinance of 14 Jan. 2009, in force since 1 Feb. 2009 (AS 2009 401).

- c. more than 0.5% by weight of ethylenediaminetetraacetic acid (EDTA; CAS no. 60-00-4), propylenediaminetetraacetic acid (PDTA; CAS no. 1939-36-2) or their salts and compounds derived from them;
- d. more than 0.5% of phosphorus by weight;
- e. anionic or non-ionic surfactants for which the level of primary biodegradability is less than 80%;
- f. cationic or amphoteric surfactants for which the level of primary biodegradability is less than 80%;
- g. surfactants for which the level of ultimate biodegradation is less than 60% (mineralisation) or 70% (loss of dissolved organic carbon);
- h. surfactants included in the list in Annex VI of Regulation (EC) Number 648/2004 of the European Parliament and of the Council of 31 March 2004 relating to detergents<sup>55</sup>:

Name (IUPAC <sup>56</sup> nomenclature)	EINECS- or ELINCS-No.	CAS-No.	Restrictions
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<sup>2</sup> The FOEN must amend the provisions of paragraph 1 letter h to comply with the changes in Regulation (EC) No. 648/2004.

<sup>3</sup> The methods for testing and analysis must conform with Annexes II, III and VIII of Regulation (EC) No. 648/2004.

### 3 Special labelling

<sup>1</sup> The following substances contained in laundry detergents must be indicated in the marking if their content is more than 0.2% by weight:

- a. phosphonates;
- b. anionic surfactants;
- c. non-ionic surfactants;
- d. cationic surfactants;
- e. amphoteric surfactants;
- f. oxygen-based bleaching agents;

<sup>55</sup> OJ L 104 of 8.4.2004, p.1, last amended by Commission Regulation (EC) No. 907/2006 of 20 June 2006 (OJ. L 168 of 21.6.2006, p. 5). The texts of the European Union legal documents mentioned in this Annex may be obtained against payment or consulted free of charge at the Chemicals Notification Authority, 3003 Bern; they may also be accessed on the Internet at [www.cheminfo.ch](http://www.cheminfo.ch).

<sup>56</sup> International Union of Pure and Applied Chemistry.

- g. chlorine-based bleaching agents;
- h. aromatic hydrocarbons;
- i. aliphatic hydrocarbons;
- j. EDTA (CAS no. 60-00-4) and its salts;
- k. nitrilotriacetic acid (NTA, CAS no. 139-13-9) and its salts;
- l. soaps;
- m. zeolites;
- n. polycarboxylates.

<sup>2</sup> The content of substances in accordance with paragraph 1 must be indicated in the marking in accordance with one of the following percentage categories (% by weight):

- less than 5%;
- 5% and more but less than 15%;
- 15% and more but less than 30%;
- 30% and more.

<sup>3</sup> The presence of the following classes of constituent must be listed irrespective of their concentration, without mention of their quantity by weight:

- a. enzymes;
- b. preservation agents;
- c. disinfectants;
- d. optical brighteners
- e. perfumes.

<sup>4</sup> If allergenic perfumes (fragrances) that are included in the list of substances in Annex III Part 1 of Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products<sup>57</sup> are added as such in a concentration of more than 0.01%, they must be indicated using the nomenclature used in the Directive.

<sup>4bis</sup> In the case of laundry detergents, the product name as well as the manufacturer's name, address and phone number must be indicated. In the case of importing laundry detergents from an EEA Member State, the name or trademark, and full address and telephone number of the party responsible for placing the product on the market in the EEA may be indicated in accordance with Article 11, paragraph 2, letter b of Regulation (EC) No. 648/2004. The second sentence does not apply to the import of dangerous laundry detergents that are supplied to the general public within the meaning of Article 3 of the Chemicals Ordinance of 18 May 2005<sup>58</sup> (ChemO).

<sup>57</sup> OJ L 262 of 27.9.1976, p.169 as amended by Directive 2003/15/EC (OJ L 66 of 11.3.2003, p.26).

<sup>58</sup> SR 813.11

<sup>5</sup> In the case of laundry detergents, there is a requirement to show the address, e-mail address, if available, and telephone number, which may be used to obtain the data sheet on ingredients under Number 5.

<sup>6</sup> The information must be shown on the packaging. If the laundry detergent is supplied for professional or commercial use, the information may be conveyed in another appropriate form (e.g. technical data sheets, safety data sheets).

<sup>7</sup> The labelling must appear in at least one official language, be clearly legible and indelible.

#### **4 Instructions for use**

<sup>1</sup> In the instructions for use of laundry detergents supplied to the general public, the dosage must be indicated in SI units (millilitres, grams).

<sup>2</sup> If the dosage varies depending on water hardness, it must be adjusted to the total hardness levels soft, medium (25 French degrees = 2.5 mmol CaCO<sub>3</sub>/l) and hard.

#### **5 Data sheet on ingredients**

<sup>1</sup> On request, manufacturers that place laundry detergents on the market must make available to the Chemicals Notification Authority (Art. 89 of the Ordinance on Chemical Products of 18 May 2005<sup>59</sup>), a data sheet on ingredients.

<sup>2</sup> On request, manufacturers must also make the data sheet on ingredients available immediately and free of charge for medical purposes, to doctors and their assistants, who are obliged to maintain professional confidentiality.

<sup>3</sup> Doctors and their assistants in accordance with paragraph 2 must treat the data made available to them as confidential and must use them solely for medical purposes.

<sup>4</sup> The data sheet on ingredients must include the following details:

- a. name of the laundry detergent;
- b. name of the manufacturer or the person who is responsible for placing the product on the market in the EEA in accordance with Article 2, Number 10 of the Regulation (EC) No. 648/2004;
- c. all the substances contained in the laundry detergent, in order of decreasing weight, according to the following categories:
  - 10% or more;
  - 1% or more but less than 10%;
  - 0.1% or more but less than 1%;
  - less than 0.1%.

<sup>59</sup> SR 813.11

- d. Each substance contained in the laundry detergent must be indicated with its chemical name or IUPAC name, its CAS number and, if applicable, the INCI<sup>60</sup> name and the name in the Swiss or European Pharmacopoeia. Impurities are not ingredients.

## 6 Exemptions

<sup>1</sup> The requirements in accordance with Nos. 2 to 5 do not apply to the import of laundry detergents which only undergo finishing or re-packaging in Switzerland and are then re-exported in their entirety.

<sup>2</sup> Number 2 paragraph 1 letters e to h does not apply to surfactants which are active ingredients in disinfectants approved under the Ordinance on Biocidal Products of 18 May 2005<sup>61</sup>. Numbers 4 and 5 are also not applicable to such disinfectants.

<sup>3</sup> The prohibition in accordance with Number 2 paragraph 1 letter g does not apply to the following surfactants included in the list in Annex V of Regulation (EC) No. 648/2004:

Name (IUPAC nomenclature)	EINECS- or ELINCS-No.	CAS-No.	Restrictions
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<sup>4</sup> The FOEN must amend the provisions of paragraph 3 to comply with the changes in Regulation (EC) No. 648/2004.

<sup>5</sup> On receipt of a justified request, it may allow other exemptions from the prohibition in accordance with Number 2 paragraph 1 letter g for surfactants not included in Annex V or VI of Regulation (EC) No. 648/2004, provided they are used in laundry detergents which are employed exclusively outside the domestic sphere. In this connection, it takes into account the criteria laid down in Annex IV of Regulation (EC) No. 648/2004.

## 7 Transitional provisions

<sup>1</sup> The following provisions come into force on 8 October 2005:

- a. the prohibitions in accordance with Number 2 paragraph 1 letters f, g and h;
- b. the special marking requirements in accordance with Number 3 paragraph 3 letters d and e and paragraph 4;
- c. the provisions on the data sheet in accordance with Number 5.

<sup>60</sup> International Nomenclature of Cosmetic Ingredients.

<sup>61</sup> SR 813.12

<sup>2</sup> Laundry detergents which contain surfactants in accordance with Number 2 paragraph 1 letter g and were already on the market before 8 October 2005 may continue to be manufactured for own use or placed on the market until 7 October 2007 at the latest.

<sup>3</sup> As from 8 October 2007, laundry detergents in accordance with paragraph 2 may only be manufactured for use by their manufacturer or placed on the market if:

- a. evidence has been presented to the FOEN showing that a request for an exemption for the use concerned was submitted in an EU member state before this date in accordance with the procedure of Regulation (EC) No. 648/2004; or
- b. a request for an exemption has been submitted to the FOEN in accordance with Number 6 paragraph 5.

<sup>4</sup> The provisions of paragraphs 2 and 3 apply until a decision has been made by the relevant authority on the application for the authorisation of an exemption.

## Cleaning products

### 1 Definition

<sup>1</sup> Cleaning products are preparations used in cleaning that are removed in waste water. In particular, they include:

- a. dishwasher products;
- b. products for washing dishes by hand;
- c. general purpose cleaners;
- d. washing-up sparkling rinses;
- e. scouring agents;
- f. lavatory cleaners;
- g. car shampoos;
- h. metal cleaners;
- i. engine cleaners;
- j. cleaning agents for the food and drink industry and for washing bottles and containers;
- k. cleaning agents for carwashes;
- l. carpet cleaners;
- m. degreasing agents;
- n. rust removers.

<sup>2</sup> An ingredient is defined as any chemical substance of synthetic or natural origin that is deliberately added to the cleaning product. For the purposes of this Annex, unless it contains an allergenic fragrance in terms of Number 3 paragraph 4, a perfume, essential oil or colouring agent is deemed to be an individual ingredient.

<sup>62</sup> Revised according to No. 13 of the Ordinance of 15 Dec. 2006(AS **2007** 111), No. 1 of the Ordinance of 13 Feb. 2008 (AS **2008** 561) and Annex No. 2 of the Ordinance of 14 Jan. 2009, in force since 1 Feb. 2009 (AS **2009** 401).

## 2 Prohibitions

<sup>1</sup> Cleaning products must not be placed on the market or manufactured for own use if they contain:

- a. liquid organic halogen compounds such as dichloromethane (CAS no. 75-09-2), trichloroethylene (CAS no. 79-01-6) and tetrachloroethylene (CAS no. 127-18-4);
- b. more than 1% by weight ethylenediaminetetraacetic acid (EDTA; CAS no. 60-00-4), propylenediaminetetraacetic acid (PDTA; CAS no. 1939-36-2) or their salts or compounds derived from them;
- c. anionic or non-ionic surfactants for which the level of primary biodegradability is less than 80%;
- d. cationic or amphoteric surfactants for which the level of primary biodegradability is less than 80%;
- e. surfactants for which the level of ultimate aerobic biodegradation is less than 60% (mineralisation) or 70% (loss by dissolved organic carbon);
- f. surfactants included in the list in Annex VI of Regulation (EC) 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents<sup>63</sup>:

Name (IUPAC <sup>64</sup> nomenclature)	EINECS- or ELINCS-No.	CAS-No.	Restrictions
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<sup>2</sup> The FOEN must amend the provisions of paragraph 1 letter f to comply with the changes in Regulation (EC) 648/2004.

<sup>3</sup> The methods for testing and analysis must conform with Annexes II, III and VIII of Regulation (EC) 648/2004.

## 3 Special labelling

<sup>1</sup> The following substances contained in cleaning products must be indicated in the marking if their content is more than 0.2% by weight:

- a. phosphates;

<sup>63</sup> OJ L 104 of 8.4.2004, p.1, last amended by Commission Regulation No. 907/2006 of 20 June 2006 (OJ. L 168 of 21.6.2006, p. 5). The texts of the European Union legal documents mentioned in this Annex may be obtained against payment or consulted free of charge at the Chemicals Notification Authority, 3003 Bern; they may also be accessed on the Internet at [www.cheminfo.ch](http://www.cheminfo.ch).

<sup>64</sup> International Union of Pure and Applied Chemistry.

- b. phosphonates;
- c. anionic surfactants;
- d. non-ionic surfactants;
- e. cationic surfactants;
- f. amphoteric surfactants;
- g. oxygen-based bleaching agents;
- h. chlorine-based bleaching agents;
- i. aromatic hydrocarbons;
- j. aliphatic hydrocarbons;
- k. EDTA (CAS no. 60-00-4) and its salts;
- l. nitrilotriacetic acid (NTA, CAS no. 139-13-9) and its salts;
- m. soap;
- n. zeolites;
- o. polycarboxylates;
- p. phenols and halogenated phenols;
- q. paradichlorobenzene (CAS no. 106-46-7).

<sup>2</sup> The content of substances in accordance with paragraph 1 must be indicated in the marking in accordance with the following percentage categories (% by weight):

- less than 5%;
- 5% and more but less than 15%;
- 15% and more but less than 30%;
- 30% and more.

<sup>3</sup> The presence of the following classes of constituent must be listed irrespective of their concentration without mention of their quantity by weight:

- a. enzymes;
- b. preservation agents ;
- c. disinfectants;
- d. perfumes.

<sup>4</sup> If allergenic fragrances that are included in the list of substances in Annex III Part 1 of Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products<sup>65</sup> are added as such in a concentration of more than 0.01%, they must be indicated using the nomenclature used in the Directive.

<sup>65</sup> OJ L 262 of 27.9.1976, p.169 as amended by Directive 2003/15/EC (OJ L 66 of 11.3.2003, p.26).

<sup>4bis</sup> In the case of cleaning products, the product name as well as the manufacturer's name, address and phone number must be indicated. In the case of importing cleaning products from an EEA Member State, the name or trademark, and full address and telephone number of the party responsible for placing the product on the market in the EEA may be indicated in accordance with Article 11, paragraph 2, letter b of Regulation (EC) No. 648/2004. The second sentence does not apply to the import of dangerous laundry detergents that are supplied to the general public within the meaning of Article 3 of the Chemicals Ordinance of 18 May 2005<sup>66</sup> (ChemO).

<sup>5</sup> In the case of cleaning products, there is a requirement to show the address, e-mail address, if available, and telephone number, which may be used to obtain the data sheet on ingredients under Number 5.

<sup>6</sup> The information must be shown on the packaging. If the cleaning product is supplied for professional or commercial use, the information may be conveyed in another appropriate form (e.g. technical data sheets, safety data sheets).

<sup>7</sup> The marking must appear in at least one official language, be clearly legible and indelible.

#### **4 Instructions for use**

The dosage indicated in the instructions for use of domestic dish washing products must be such that, if observed, the quantity of phosphorus used for each wash does not exceed 2.5 g.

#### **5 Data sheet on ingredients**

<sup>1</sup> On request, manufacturers that place cleaning products on the market must make available to the Chemicals Notification Authority (Art. 89 of the Ordinance on Chemical Products of 18 May 2005<sup>67</sup>), a data sheet on ingredients.

<sup>2</sup> On request, manufacturers must also make the data sheet on ingredients available immediately and free of charge for medical purposes, to doctors and their assistants, who are required to maintain professional confidentiality.

<sup>3</sup> Doctors and their assistants in accordance with paragraph 2 must treat the data made available to them as confidential and must use them solely for medical purposes.

<sup>4</sup> The data sheet on ingredients must include the following details:

- a. name of the cleaning product;
- b. name of the manufacturer or the person who is responsible for placing the product on the market in the EEA in accordance with Article 2, Number 10 of the Regulation (EC) No. 648/2004;

<sup>66</sup> SR 813.11; AS 2009 401

<sup>67</sup> SR 813.11

- c. all the substances contained in the cleaning product, in order of decreasing weight, according to the following categories:
- 10% or more;
  - 1% or more but less than 10%;
  - 0.1% or more but less than 1%;
  - less than 0.1%.
- d. Each substance contained in the cleaning product must be indicated with its chemical name or IUPAC name, its CAS number and, if applicable, the INCI<sup>68</sup> name and the name in the Swiss or European Pharmacopoeia. Impurities are not ingredients.

## 6 Exemptions

<sup>1</sup> The requirements in accordance with Nos. 2 to 5 do not apply to the import of cleaning products which only undergo finishing or re-packaging in Switzerland and are then re-exported in their entirety.

<sup>2</sup> On receipt of a justified request, the FOEN may allow exemptions from the prohibitions in accordance with Number 2 paragraph 1 letter a, if:

- a. the state of the art is such that substitution is not possible; and
- b. the quantities of these substances used do not exceed the quantities required for the intended use.

<sup>3</sup> Number 2 paragraph 1 letters c to f does not apply to surfactants which are active ingredients in disinfectants approved under the Ordinance of 18 May 2005<sup>69</sup> on Biocidal Products or compliant with the requirements of the Ordinance of 17 October 2001<sup>70</sup> on Medical Devices. Nos. 4 and 5 are also not applicable to such disinfectants.

<sup>4</sup> The prohibition in accordance with Number 2 paragraph 1 letter e does not apply to the following surfactants included in the list in Annex V of Regulation (EC) 648/2004:

Name (IUPAC nomenclature)	EINECS- or ELINCS-No.	CAS-No.	Restrictions
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<sup>5</sup> The FOEN must amend the provisions of paragraph 4 to comply with the changes in Regulation (EC) 648/2004.

<sup>68</sup> International Nomenclature of Cosmetic Ingredients.

<sup>69</sup> SR 813.12

<sup>70</sup> SR 812.213

<sup>6</sup> On receipt of a justified request, it may allow other exemptions from the prohibition in accordance with Number 2 paragraph 1 letter e for surfactants not included in Annex V or VI of Regulation (EC) 648/2004. In this connection, it takes into account the criteria laid down in Annex IV of Regulation (EC) 648/2004.

## **7 Transitional provisions**

<sup>1</sup> The following provisions come into force on 8 October 2005:

- a. the prohibitions in accordance with Number 2 paragraph 1 letters d to f;
- b. the special marking requirements in accordance with Number 3 paragraph 3 letter d and paragraph 4;
- c. the provisions on the data sheet in accordance with Number 5.

<sup>2</sup> Cleaning products which contain surfactants in accordance with Number 2 paragraph 1 letter e and were already on the market before 8 October 2005 may continue to be manufactured for own use or placed on the market until 7 October 2007 at the latest.

<sup>3</sup> As from 8 October 2007, cleaning products in accordance with paragraph 2 may only be manufactured for own use or placed on the market if:

- a. evidence has been presented to the FOEN showing that a request for an exemption for the use concerned was submitted in an EU member state before this date in accordance with the procedure of Regulation (EC) No. 648/2004; or
- b. a request for an exemption has been submitted to the FOEN in accordance with No. 6 paragraph 6.

<sup>4</sup> The provisions of paragraphs 2 and 3 apply until a decision has been made by the relevant authority on the application for the authorisation of an exemption.

## Solvents

### 1 Definitions

<sup>1</sup> Solvents are substances and preparations that, without being chemically altered, are used either in cleaning operations or to dissolve or emulsify substances or to put them in suspension.

<sup>2</sup> Halogenated solvents are solvents containing in total more than 1% of the following substances by weight:

- a. dichloromethane (CAS no. 75-09-2);
- b. 1,1-dichloroethane (CAS no. 75-34-3);
- c. 1,2-dichloroethane (CAS no. 107-06-2);
- d. chloroform (CAS no. 67-66-3);
- e. trichloroethylene (CAS no. 79-01-6);
- f. tetrachloroethylene (CAS no. 127-18-4).

### 2 Prohibitions

The following is prohibited:

- a. the manufacture, placing on the market, import on a private basis and the use of solvents containing substances that deplete the ozone layer (Annex 1.4) or substances that are stable in air (Annex 1.5);
- b. the manufacture, placing on the market and the import on a private basis of preparations or articles which include solvents containing substances that deplete the ozone layer (Annex 1.4) or substances that are stable in air (Annex 1.5).

### 3 Exemptions

<sup>1</sup> The prohibition in accordance with Number 2 letter a does not apply to solvents containing substances that are stable in air and that are used in surface treatment installations in accordance with Annex 2 Number 87 of the Ordinance of 16 December 1985<sup>71</sup> on Air Pollution Control.

<sup>71</sup> SR 814.318.142.1

<sup>2</sup> The FOEN may allow temporary exemptions from the prohibitions in accordance with Number 2 if:

- a. the state of the art is such that substitution is not possible; and
- b. state-of-the-art measures for avoiding emissions have been taken.

## **4 Special labelling**

<sup>1</sup> The labelling of containers containing more than 2.5 litres of halogenated solvents must include indications as to the following points:

- a. that the container contains halogenated solvents;
- b. the chemical name, the boiling point and the content by weight of all the substances in the container that are mentioned in Number 1 paragraph 2 with a content of more than 10% by weight.

<sup>2</sup> This information must appear in at least two official languages, be clearly legible and indelible.

## **5 Halogenated solvent waste handling**

### **5.1 Prohibition of mixing**

<sup>1</sup> It is prohibited for any person who uses halogenated solvents on a professional or commercial basis to mix the waste from these solvents with the following:

- a. non-halogenated solvents or waste from non-halogenated solvents;
- b. other types of halogenated solvents or waste from halogenated solvents, if this mixture seriously complicates the recycling process;
- c. other waste, substances, preparations or articles.

<sup>2</sup> The prohibition in accordance with paragraph 1 letter b does not apply to persons who do not use more than 20 litres a year of a substance in accordance with Number 1 paragraph 2.

<sup>3</sup> The prohibitions in accordance with paragraph 1 do not apply to persons who recycle or incinerate halogenated solvent waste themselves in the appropriate manner.

### **5.2 Take-back obligation**

Any person who supplies a user with halogenated solvents in containers of more than 20 litres is responsible, if the user so requires, for taking back these solvents with the impurities and other additives arising from their use, or for arranging for them to be accepted by a third party.

### **5.3            Recycling**

The canton may require holders of halogenated solvent waste or companies who accept such solvents for disposal to:

- a. determine whether there is any possibility of recycling or whether it is possible to initiate such;
- b. inform the canton of the results of their research;
- c. ensure the recycling of this waste if it is technically possible and financially viable and does not result in disproportionate use of energy.

## **Biocidal products**

### **1 Wood preservatives**

#### **1.1 Definitions**

<sup>1</sup> Wood preservatives are biocidal products belonging to product type 8 in accordance with Annex 10 of the Ordinance of 18 May 2005<sup>72</sup> on Biocidal Products (OBP).

<sup>2</sup> In particular, the following substances are tar oils:

- a. creosote (CAS no. 8001-58-9);
- b. creosote oil (CAS no. 61789-28-4);
- c. distillates (coal tar), naphthalene oil (CAS no. 84650-04-4);
- d. creosote oil, acenaphthene fraction (CAS no. 90640-84-9);
- e. distillates (coal tar), upper (CAS no. 65996-91-0);
- f. anthracene oil (CAS no. 90640-80-5);
- g. tar acids, coal, crude (CAS no. 65996-85-2);
- h. creosote, wood (CAS no. 8021-39-4);
- i. low-temperature alkaline tar oil, extraction residues (CAS no. 122384-78-5).

#### **1.2 Prohibitions**

<sup>1</sup> It is prohibited to place wood preservatives on the market that contain:

- a. arsenic or arsenic compounds;
- b. tar oils.

<sup>2</sup> It is prohibited to supply and use wood treated with wood preservatives that contain tar oil.

<sup>3</sup> It is prohibited to import, on a professional or commercial basis, wood treated with wood preservatives that do not comply with the requirements laid down in the OBP for placing on the market.

<sup>72</sup> SR 813.12

### 1.3 Exemptions

<sup>1</sup> The prohibition in accordance with Number 1.2 paragraph 1 letter b does not apply to wood preservatives which contain tar oil if they:

- a. contain the smallest quantity of water-soluble phenols or benzo[a]pyrene possible according to the state of the art, with maximum limits of:
  1. 30 g water extractable phenols per kilogram,
  2. 50 mg benzo[a]pyrene per kilogram; and
- b. are supplied to professional or commercial users in packages with a minimum content of 20 litres.

<sup>2</sup> The prohibition on supply in accordance with Number 1.2 paragraph 2 does not apply to railway sleepers supplied by one rail company to another and intended for railway installations.

<sup>3</sup> The prohibitions in accordance with Number 1.2 paragraph 2 do not apply to wood that:

- a. has been treated with wood preservatives in accordance with paragraph 1; and
- b. is used for:
  1. railway track installations,
  2. slope stabilisation work and avalanche protection work away from residential settlements,
  3. anti-noise walls away from inhabited areas,
  4. footpath and road consolidation work away from inhabited areas,
  5. the bases of electrical pylons,
  6. other installations for purposes comparable to the installations listed in Nos. 1 to 5, which are constructed away from inhabited areas; after consulting the Federal Offices concerned, the FOEN lays down recommendations intended for the enforcement authorities.

<sup>4</sup> The prohibition in accordance with Number 1.2 paragraph 3 does not apply to the import of wood which only undergoes finishing or re-packaging in Switzerland and is then re-exported in its entirety.

<sup>5</sup> The Chemicals Notification Authority (Art. 89 of the Ordinance on Chemical Products of 18 May 2005<sup>73</sup>), may allow exemptions from the prohibition in accordance with Number 1.2 paragraph 3. It makes its decision in agreement with the competent assessment bodies in accordance with Art. 50 OBP.

### 1.4 Use in ground water protection zones

<sup>1</sup> In ground water protection zones S1 and S2 it is prohibited:

<sup>73</sup> SR 813.11

- a. to use wood preservatives;
- b. to store wood treated with wood preservatives.

<sup>2</sup> Any person who intends to use wood preservatives or to store wood treated with these products in ground water protection zone S3 or near waters, must take the necessary structural measures to prevent seepage and run-off of the preservatives.

## **2 Other preservatives**

### **2.1 Definitions**

The following are preservatives:

- a. biocidal products used to protect industrial water from harmful organisms in the industrial, commercial or municipal sector;
- b. biocidal products belonging to product type 6 (in-can preservatives) in accordance with Annex 10 OBP;
- c. biocidal products belonging to product type 7 (film preservatives) in accordance with Annex 10 OBP.

### **2.2 Prohibitions**

It is prohibited to place on the market or to use, in paints or varnishes or for industrial water, preservatives containing the following:

- a. trialkyl tins or triaryl tins;
- b. arsenic or arsenic compounds.

### **2.3 Exemption**

The prohibitions in accordance with Number 2.2 letter a do not apply to paints and varnishes containing trialkyl tins or triaryl tins that are chemically bonded.

## **3 Rodenticides**

### **3.1 Definition**

Rodenticides are biocidal products belonging to product type 14 in accordance with Annex 10 OBP.

### **3.2 Prohibition**

It is prohibited to place on the market and to use rodenticides containing:

- a. arsenic or arsenic compounds;
- b. thallium or thallium compounds;
- c. strychnine.

## **4 Antifouling products**

### **4.1 Definition**

Antifouling products means biocidal products belonging to product type 21 in accordance with Annex 10 OBP.

### **4.2 Prohibition**

It is prohibited to place on the market or use antifouling products containing:

- a. trialkyl tins or triaryl tins;
- b. arsenic compounds.

## **5 Return obligation**

<sup>1</sup> The user must return biocidal products that he can no longer use or that he wishes to dispose of to a person authorised to accept them or he must dispose of them at a collection centre intended for this purpose.

<sup>2</sup> Small quantities of biocidal products are taken back free of charge.

## **6 Exemptions relating to biocidal products intended for research and development**

The prohibitions in accordance with this Annex do not apply to the placing on the market of biocidal products for research and development purposes. The provisions of Chapter 3 OBP apply.

## **7 Transitional provision**

<sup>1</sup> The prohibition on use under Number 1.2 paragraph 2 does not apply to wood that was supplied up to 31 December 2001.

<sup>2</sup> Wood treated with wood preservatives that do not come under the exemption of Number 1.3 paragraph 1 may only be used for the purposes specified in Number 1.3 paragraph 3 letter b if it was supplied up to 30 June 2005.

## Plant protection products

### 1 Use

#### 1.1 Prohibitions and restrictions

<sup>1</sup> It is prohibited to use plant protection products:

- a. in regions classified as natural reserves pursuant to federal or cantonal legislation, unless provisions relating thereto provide otherwise;
- b. in reed beds and marshes;
- c. in hedges and copses and in a 3 m wide strip alongside hedges and copses;
- d. in forests and a 3 m wide strip alongside the stand of trees;
- e. in surface water and a 3 m wide strip alongside surface water;
- f. in the ground water protection zone S1 (Art. 29 paragraph 2 of the Ordinance of 28 October 1998<sup>74</sup>; on the Protection of Water;
- g. on and along railway track installations in ground water protection zone S2.

<sup>2</sup> It is also prohibited to use herbicides or plant growth regulators:

- a. on roofs and terraces;
- b. on sites used for storage;
- c. on roads, paths and squares and along their edges;
- d. on embankments and verges alongside roads and railways.

<sup>3</sup> The use of plant protection products in ground water protection zone S2 (Art. 29 paragraph 2 of the Ordinance on the Protection of Water) is governed by the Ordinance of 18 May 2005<sup>75</sup> on Plant Protection Products.

<sup>4</sup> With regard to the use of plant protection products in the areas of inflow contribution  $Z_u$  and  $Z_o$  (Art. 29 paragraph 1 letters c and d of the Ordinance on the Protection of Water), taking into account the exemptions in accordance with Number 1.2 paragraphs 2, 4 and 5, the cantons stipulate restrictions going beyond those listed in paragraphs 1 and 2 if required to ensure the protection of water. In particular, they must restrict the use of a plant protection product in the area of inflow contribution  $Z_u$  if the presence of this product is detected in a drinking water installation and the requirements for ground water that is used or is intended for use are repeatedly not met.

<sup>5</sup> With regard to the use of plant protection products on railways and alongside them, outside ground water protection zones S1 and S2, in agreement with the FOEN, the

<sup>74</sup> SR 814.201

<sup>75</sup> SR 916.161

Federal Office of Transport stipulates the restrictions and prohibitions required to guarantee the protection of the environment. It must take into account the local situation and consult the cantons concerned before making its decision.

## 1.2 Exemptions

<sup>1</sup> The prohibitions in accordance with Number 1.1 paragraph 1 letters a and b do not apply to the use of plant protection products intended to preserve harvests in closed installations or buildings if the structural measures taken prevent run-off and seepage of the products and their degradation products.

<sup>2</sup> The prohibitions in accordance with Number 1.1 paragraph 1 letter c and on wooded pastures in accordance with Number 1.1 paragraph 1 letter d do not apply to individual treatments of plants posing problems if it is impossible to control them effectively using other measures such as regular cutting.

<sup>3</sup> In forests, if the plant protection products cannot be replaced by less environmentally pollutive measures, as an exemption from the prohibition in accordance with Number 1.1 paragraph 1 letter d and subject to Number 1.1 paragraph 1 letters a, b, e and f, paragraph 2 and paragraph 4, the competent cantonal authority issues an authorisation in accordance with Articles 4 to 6 allowing the use of plant protection products:

- a. to treat wood which could cause damage to forests following natural disasters and also against pathogens which could cause this damage, if required to conserve the forest;
- b. to treat cut wood at appropriate sites if it cannot be removed in time and if these sites are not located in ground water protection zones;
- c. in forest nurseries located outside ground water protection zones;
- d. to remedy the damage caused by game in areas of natural rejuvenation, afforestation or reforestation, if required to conserve the forest.

<sup>4</sup> The prohibition in accordance with Number 1.1 paragraph 2 letter c does not apply to the treatment of individual plants posing problems along national and cantonal roads if it is impossible to control them effectively with other measures such as regular cutting.

<sup>5</sup> The prohibition in accordance with Number 1.1 paragraph 2 letter d does not apply to the treatment of individual plants if it is impossible to control them effectively with other measures such as regular cutting.

## 2 Return obligation

<sup>1</sup> The user must return plant protection products that he can no longer use or that he wishes to dispose of to a person authorised to accept them or he must dispose of them at a collection centre intended for this purpose.

<sup>2</sup> Small quantities of plant protection products are taken back free of charge.

*Annex 2.6<sup>76</sup>*  
(Art. 3)

## Fertilisers

### 1 Definitions

<sup>1</sup> This annex includes the terms used in the Ordinance of 10 January 2001<sup>77</sup> on Fertilisers.

<sup>2</sup> Forage areas are meadows and pastures as well as areas of crop rotation, the harvests of which are used entirely or partly as forage. This term does not apply to areas of crop rotation where only the grains or cobs are harvested.

### 2 Special supply requirements

#### 2.1 Compost, digestates, pressing liquors, mineral fertilisers, products from animal waste and sewage sludge

<sup>1</sup> The following fertilisers may be supplied only if the requirements of the Fertiliser Ordinance and the requirements listed in Number 2.2 are observed:

<sup>2</sup> It is prohibited to supply sewage sludge; Number 5 is reserved.

### 2.2 Quality requirements

#### 2.2.1 Compost, digestates and pressing liquors

<sup>1</sup> The pollutant content of compost, digestates and pressing liquor must not exceed the following limit values:

Pollutant	Limit value in grams per tonne of dry substance
Cadmium (Cd)	1
Copper (Cu)	100*
Lead (Pb)	120
Mercury (Hg)	1
Nickel (Ni)	30
Zinc (Zn)	400**

\* 150 g/t dry matter if the proportion of pig excrement is more than 50% of dry matter

\*\* 600 g/t dry matter if the proportion of pig excrement is more than 50% of dry matter

<sup>76</sup> Revised according to Annex V of 14 Nov. 2007, in force since 1 Jan. 2008 (AS 2007 6295).

<sup>77</sup> SR 916.171

<sup>2</sup> The following requirements for inert contaminants additionally apply to compost and digestates:

- a. Contaminants (metal, glass, plastic etc.) with a diameter of more than 2 mm may not exceed 0.5 percent of the dry matter weight;
- b. The content of area-measured plastics (plastic shreds, films, bags, styrofoam etc.) and aluminium foil with a thickness of more than 2 mm may not exceed 0.1 percent of the dry matter weight.
- c. The content of stones with a diameter of more than 5 mm should be as low as possible, so that the quality of a fertilizer is not impaired.

<sup>3</sup> The following guidelines apply to compost and digestates:

Pollutant	Guide value
Polycyclic aromatic hydrocarbons (PAHs)	4 grams per tonne of dry matter <sup>1</sup>
Dioxins (PCDD) and furans (PCDF)	20 nanograms I-TEQ <sup>2</sup> per kilogram of dry matter

<sup>1</sup> Total of the following 16 principal PAH compounds on the EPA's priority pollutants list: naphthalene, acenaphthylene, acenaphthene, fluorene, phenanthrene, anthracene, fluoranthene, pyrene, benzo(a)anthracene, chrysene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, dibenzo(a,h)anthracene and benzo(ghi)perylene.

<sup>2</sup> I-TEQ = International toxicity equivalents

<sup>4</sup> The provisions of paragraph 1 do not apply to farm manures that are intended for own use or that are provided directly to end consumers from a farm with farm animals. The provisions according to article 30a paragraph 2 of the Ordinance on Fertilizers remain reserved.

## 2.2.2 Mineral fertilisers and products from animal waste

The pollutant content of mineral fertilisers and products from animal waste must not exceed the following limit values:

Pollutant	Limit value in grams per tonne of	
	dry matter	phosphorus (P)
Cadmium (Cd) in phosphorus fertilisers containing more than 1% phosphorus		50
Chromium (Cr)	2000	
Vanadium (V)	4000	

### 2.2.3 Organic mineral fertilizers

The pollutants content of organic mineral fertilizers may not exceed the limit values in Number 2.2.1, whereby a proportion of more than 5 percent phosphorous requires that the cadmium limit value in Number 2.2.2 be applied.

## 2.3 Tasks of the operators of composting and fermentation plants

### 2.3.1 Delivery note

<sup>1</sup> The operators of composting and fermentation plants that process material that can be composted or fermented and supply compost, digestates or liquid digestates amounting to a quantity of more than 100 t per year must provide purchasers with a delivery note with the following information for all deliveries:

- a. the quantity supplied;
- b. the content of dry matter and organic substance;
- c. the content of total nitrogen;
- d. the content of phosphorus, calcium, magnesium and potassium as well as electrical conductivity (indicated in millesimal per centimetre);
- e. the pollutant content (overall assessment);
- f. permitted quantity for average needs.

<sup>2</sup> If the compost or digestates are supplied in bags, the weight and information in accordance with paragraph 1 letters b–f must be shown on the bags. In these cases, the label on the bag is equivalent to a delivery note.

### 2.3.2 Purchasers register

<sup>1</sup> The plant operators as described in Number 2.3.1 paragraph 1 must keep a register of all purchasers of compost, digestates and liquid digestates who procure more than die 5 t of compost, digestates or liquid digestates per year.

<sup>2</sup> The register must contain at least the following information:

- a. the delivery date;
- b. the name of the purchaser;
- c. the quantity supplied;
- d. the remaining information on the delivery note.

<sup>3</sup> The plant operators must keep the register for at least ten (10). They must make it available on request to the FOAG, to the cantonal authorities and to third parties specified by the FOAG.

### **2.3.3 Proof upon delivery of compost, digestates and liquid digestates**

The plant operators as described in Number 2.3.1 paragraph 1 may only deliver compost, digestates and liquid digestates to purchasers who do not use these fertilisers on their own or leased land if the purchasers can demonstrate that they have the required specialised knowledge for using these fertilisers.

### **2.3.4 Obligation to carry out analyses**

<sup>1</sup> In accordance with the FOAG instructions, the plant operators as described in Number 2.3.1 paragraph 1 must carry out the necessary analyses in order to guarantee compliance with the requirements described of 2.2.1 paragraphs 1 and 3 and in Article 21a of the Fertiliser Ordinance.

<sup>2</sup> They must make these results available to the FOAG and to the cantonal authorities without delay.

## **3 Use**

### **3.1 Principles**

<sup>1</sup> Any person who uses fertilisers must take into consideration:

- a. the nutritional elements present in the soil and the nutrient requirements of plants (fertilising guidelines);
- b. the site (vegetation, topography and pedological conditions);
- c. meteorological conditions;
- d. restrictions imposed by legislation on the protection of water, on the protection of nature and of natural heritage, on the protection of the environment, or relating to an agreement based on this legislation.

<sup>2</sup> Any person who has farm manures at their disposal is authorised to use recycled fertilisers and mineral fertilisers only if their farm manures are insufficient or are not suitable for meeting the nutrient requirements of the plants.

<sup>3</sup> Introducing pollutants into soil used for agricultural purposes must be avoided to the extent possible.

### **3.2 Restrictions**

#### **3.2.1 Nitrogenous fertilisers and fluid fertilisers**

<sup>1</sup> The use of nitrogenous fertilisers is authorised only during periods when the plants can absorb the nitrogen. If the particular crop production conditions require fertiliser treatment outside these periods, the use of these fertilisers is authorised only if there is no risk of them impairing the water quality.

<sup>2</sup> The use of fluid fertilisers is authorised only if the soil is likely to absorb them. In particular, they must not be used when the soil is saturated, frozen, covered with snow or has dried out.

#### **3.2.2 Compost, digestates and pressing liquor**

<sup>1</sup> The authorised quantity that can be used over a three-year period is a maximum of 25 tonnes per hectare for compost and digestates (in relation to dry matter) or 200m<sup>3</sup> per hectare for pressing liquor, provided that these quantities do not exceed the nitrogen and phosphorus requirements of the plants.

<sup>2</sup> It is prohibited to use, over 10 years, more than 100 tonnes per hectare of compost and digestates (in relation to dry matter) as soil improvement agent or as substrates, for the protection of soils against erosion, for their re-cultivation or for artificial potting soil.

#### **3.2.3 Residues obtained from small water treatment plants and pits of non-agricultural waste water with no run-off**

<sup>1</sup> Residues originating from non-agricultural water treatment plants equivalent to not more than 200 inhabitants and from pits of non-agricultural waste water with no run-off may be used on areas of forage in remote places or where access by vehicle is difficult if authorised by the cantonal authorities.

<sup>2</sup> It is prohibited to use them in vegetable-growing areas or to store them in slurry pits; the requirements listed in Number 3.3 are reserved.

### **3.3 Prohibitions and exemptions**

#### **3.3.1 Prohibitions**

<sup>1</sup> It is prohibited to use fertilisers in the following areas:

- a. regions classified as natural reserves pursuant to federal or cantonal legislation, unless specific requirements or agreements specify otherwise;
- b. reed beds and marshes not included under a;
- c. hedges and copses or in a 3 m wide strip alongside hedges and copses;
- d. surface water or a 3 m wide strip alongside surface water;

- e. the ground water protection zone S1 (Art. 29 para. 2 of the Ordinance of 28 October 1998<sup>78</sup> on the Protection of Water), with the exception of cut grass left on the ground.

<sup>2</sup> It is prohibited to use fluid fertilisers (pressing liquor and digestates) in the ground water protection zone S2 (Art. 29 para. 2 of the Ordinance on the Protection of Water).

<sup>3</sup> With regard to using fertilisers in the inflow areas  $Z_u$  and  $Z_o$  (Art. 29 para. 1 letters c and d of the Ordinance on the Protection of Water), the cantonal authorities stipulate restrictions going beyond those listed in paragraphs 1 and 2 if required to ensure the protection of water.

<sup>4</sup> It is prohibited to use sewage sludge; Number 5 is reserved.

<sup>5</sup> It is prohibited to use fertilisers in forests and in a 3 m strip alongside the stand of trees.

### 3.3.2 Exemptions

<sup>1</sup> By way of derogation from the prohibition in accordance with Number 3.3.1 paragraph 2, in the ground water protection zone S2 the cantonal authorities may permit the use of a maximum quantity of 20 m<sup>3</sup> fluid fertiliser per hectare up to three times in each crop growing period, at sufficiently spaced intervals, if the soil quality is such that no pathogenic micro-organism can penetrate the ground water training or the ground water enrichment installation.

<sup>2</sup> By way of derogation from the prohibition in accordance with Number 3.3.1 paragraph 5 and subject to Number 3.3.1 paragraphs 1 to 4, the use of fertilisers in forests and in a 3 m wide strip alongside the stand of trees may be authorised outside ground water protection zones (Art. 4 to 6) for the following:

- a. using compost, solid digestates and mineral fertilisers:
  - in forest nurseries;
  - during afforestation or reforestation and for sowing;
  - on the verges of forestry roads for the purpose of developing plant cover and for biotic engineering;
  - on small areas within the framework of scientific trials;
- b. using of farm manures, compost, solid digestates as well as non-nitrogenous mineral fertilisers on wooded pastureland.

## 4 Analyses carried out by the authorities

<sup>1</sup> At appropriate intervals, the FOEN carries out analyses of compost, digestates and pressing liquor to check the PAH, dioxin and furan contents. It publishes a summary

of the results of its analyses and, beforehand, informs the cantonal authorities, the FOAG and operators of the installations.

<sup>2</sup> The cantonal authorities must determine the reason why results exceed guide values in accordance with Number 2.2.1 paragraph 3 and ensure that the compost, digestates and pressing liquor are not supplied if their use may impair soil fertility.

**5 Transitional provisions relating to sewage sludge**

**5.1 Supply**

<sup>1</sup> The supply of sewage sludge continues to be authorised until 30 September 2006 if:

- a. the pollutant content does not exceed the following limit values:

Pollutant	Limit value in grams per tonne of dry matter
Cadmium (Cd)	5
Chromium (Cr)	500
Cobalt (Co)	60
Copper (Cu)	600
Lead (Pb)	500
Mercury (Hg)	5
Molybdenum (Mo)	20
Nickel (Ni)	80
Zinc (Zn)	2000
Adsorbable organic halogens (AOX)	500 (guideline value)

- b. no plant protection product or any agent affecting the biology of soils has been added to them; and
- c. the purchasers can prove that they are capable of using sewage sludge in accordance with the requirements.

<sup>2</sup> If sewage sludge is supplied, Art. 24a paragraphs 1 and 2 of the Fertiliser Ordinance, on the instructions for use, applies. Nos. 2.3.1 and 2.3.2 apply to operators of water treatment plants who supply sewage sludge; the delivery note must also state the ammoniacal nitrogen content.

<sup>3</sup> In accordance with the FOAG instructions, the operators of water treatment plants must carry out analyses in order to guarantee compliance with the requirements of paragraph 1 letters a and b. They must make these results available to the FOAG and the cantonal authorities without delay.

## 5.2 Use

<sup>1</sup> The use of sewage sludge continues to be authorised until 30 September 2006; it is however prohibited to use it on forage areas and vegetable-growing areas and in ground water protection zones or to store it in slurry pits.

<sup>2</sup> The quantity of sewage sludge used must not exceed the plants' nitrogen and phosphorus requirements and in no case should it exceed 5 tonnes per hectare over a three-year period (in relation to dry matter, not including additives).

## 5.3 Extension of the transitional period

<sup>1</sup> The cantons may extend by a maximum of two years the period during which the supply and use of sewage sludge continues to be authorised (No. 5.1 para. 1 and No. 5.2 para. 1). The prohibition of the use of sewage sludge on forage areas and vegetable-growing areas and in ground water protection zones or storage in slurry pits is unaffected.

<sup>2</sup> They must inform the FOAG and the FOEN of any extension granted.

## 5.4 Tasks and competences of the FOAG

<sup>1</sup> The FOAG may authorise, for a limited period, the supply of sewage sludge that exceeds the limit values stipulated in Number 5.1 paragraph 1 letter a by a maximum of 100 %:

- a. if exceeding the limit values is exceptional or lasts for a maximum of six months; or
- b. at the request of the cantonal authorities, if they ensure that the required purification measures are implemented in the catchment area of the installation concerned.

<sup>2</sup> If the FOAG grants an authorisation in accordance with paragraph 1, it must restrict the quantity of sewage sludge that may be supplied such that the pollutant burden for each hectare does not exceed the level it would reach if the limit values stipulated in Number 5.1 paragraph 1 letter a were observed.

<sup>3</sup> It must inform the cantonal authorities if the guide value stipulated for AOX in Number 5.1 paragraph 1 letter a is exceeded and ask them to determine why this has occurred. It must ensure that sewage sludge is not supplied as fertiliser if it could impair the soil or crops.

<sup>4</sup> The FOAG and the recognised laboratories in accordance with Art. 30a paragraph 1 letter c of the Fertiliser Ordinance may take samples at any time from water treatment plants and from sites where sewage sludge has been used.

<sup>5</sup> In other respects, the tasks and competences of the FOAG are defined in Art. 30a of the Fertiliser Ordinance.

*Annex 2.7*  
(Art. 3)

## **De-icing products**

### **1 Definition**

De-icing products are substances and preparations intended to counteract the formation of black ice and hard-packed snow and containing more than 10% of de-icing substances by weight.

### **2 Supply**

It is prohibited to supply de-icing products containing de-icing substances other than:

- a. sodium chloride, calcium chloride or magnesium chloride;
- b. urea;
- c. degradable lower alcohols;
- d. sodium formiate or potassium formiate;
- e. sodium acetate or potassium acetate.

### **3 Use**

#### **3.1 Restrictions**

<sup>1</sup> It is prohibited to use de-icing products containing de-icing substances other than those mentioned in Number 2.

<sup>2</sup> The use of de-icing products containing urea is authorised only at airfields and sections of road threatened by corrosion.

<sup>3</sup> The use of de-icing products containing sodium formiate or potassium formiate or sodium acetate or potassium acetate is authorised only at airfields.

#### **3.2 Exemptions**

The FOEN may authorise certain users to use de-icing products containing de-icing substances other than those mentioned in Number 2 to test their suitability. This authorisation must be restricted to a maximum three-month period. It may be extended.

### **3.3 Use by the public services to treat roads in the winter**

<sup>1</sup> As far as appropriate, snow-covered roads must be cleared mechanically before resorting to de-icing products.

<sup>2</sup> The use of de-icing products by the public services to treat roads in the winter is authorised only:

- a. if the mechanical spreading is done by devices that are adjusted to spread a uniform quantity of product on each surface unit of any surface being treated;
- b. for preventive purposes, under extreme meteorological conditions and at exposed places.

<sup>3</sup> With regard to public roads, paths and squares, the cantons stipulate the conditions and methods for the use of de-icing products or other procedures to combat black ice and hard-packed snow.

*Annex 2.8*<sup>79</sup>  
(Art. 3)

## **Paints and varnishes**

### **1 Definitions**

<sup>1</sup> Paints and varnishes containing cadmium or cadmium compounds and with a cadmium content of 0.01% or more by weight are paints and varnishes containing cadmium.

<sup>2</sup> Paints and varnishes containing lead or lead compounds and with a lead content of 0.01% or more by weight are paints and varnishes containing lead.

### **2 Prohibitions**

<sup>1</sup> It is prohibited for manufacturers to place on the market paints and varnishes containing cadmium or articles that have been treated with these paints and varnishes.

<sup>2</sup> It is prohibited for manufacturers to place on the market paints and varnishes containing lead or articles that have been treated with these paints and varnishes.

<sup>3</sup> Annex 2.16 Number 4 applies to the placing on the market of packaging and packaging components treated with paints or varnishes containing cadmium or lead.

### **3 Exemptions**

<sup>1</sup> The prohibition in accordance with Number 2 paragraph 1 does not apply to the placing on the market of:

- a. paints and varnishes with a high zinc content if their content of cadmium or cadmium compounds by weight is kept as low as possible and does not exceed 0.1% cadmium;
- b. articles that have been treated with paints or varnishes in accordance with letter a.

<sup>2</sup> The prohibition in accordance with Number 2 paragraph 2 does not apply to:

- a. the import of paints and varnishes for the treatment of objects that are then exported in their entirety;
- b. the import of objects if these are simply processed in Switzerland or repackaged and then re-exported in their entirety;

<sup>79</sup> Revised according to No. I 3 of the Ordinance of 15 Dec. 2005, in force since 1 March 2007 (AS 2007 111).

- c. the placing on the market of paints and varnishes for the treatment of the objects specified in paragraph 3.

<sup>3</sup> The prohibition in accordance with Number 2 paragraph 2 also does not apply, subject to Annex 2.16 Nos. 5, 6 and 7 paragraphs 2–5, to the placing on the market of vehicles, electrical and electronic appliances as well as components that have been treated with paints or varnishes.

#### **4 Transitional provisions**

<sup>1</sup> Manufacturers are authorised to place on the market paints and varnishes containing lead or articles that have been treated with these paints and varnishes until 31 July 2006.

2–3 ...

## Plastics and additives

### 1 Definition

Plastics containing cadmium or cadmium compounds and with a cadmium content of 0.01% by weight or more are plastics containing cadmium.

### 2 Prohibitions

<sup>1</sup> The following are prohibited:

- a. the placing on the market by the manufacturer of articles composed entirely or partly of plastics containing cadmium;
- b. the manufacture and import of synthetic foams manufactured with substances that deplete the ozone layer (Annex 1.4), or articles containing these foams;
- c. the supply and use of synthetic foams manufactured with substances that are stable in air (Annex 1.5), or articles containing these foams;
- d. the placing on the market and the use of extender oils for the manufacture of tyres or tyre components if these oils contain:
  1. more than 1 mg benzo [a]pyrene per kilogram,
  2. a total of more than 10 mg per kilogram of the following polycyclic aromatic hydrocarbons:
    - benzo [a]pyrene (CAS-No. 50-32-8)
    - benzo [e]pyrene (CAS-No. 192-97-2)
    - benzo [a]anthracene (CAS-No. 56-55-3)
    - chrysene (CAS-No. 218-01-9)
    - benzo [b]fluoranthene (CAS-No. 205-99-2)
    - benzo [j]fluoranthene (CAS-No. 205-82-3)
    - benzo [k]fluoranthene (CAS-No. 207-08-9)
    - dibenzo[a,h]anthracene (CAS-No. 53-70-3)
- e. the placing on the market of tyres and treads for retreads if they contain extender oils that exceed the limits in terms of letter d.

<sup>1bis</sup> The testing and analysis methods for determining the limits in paragraph 1 letters d and e are based on Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to

<sup>80</sup> Revised according to No. I 3 of the Ordinance of 15 Dec. 2005, in force since 1 March 2007 (AS 2007 111).

restrictions on the marketing and use of certain dangerous substances and preparations<sup>81</sup>.

<sup>2</sup> Annex 2.12 applies to aerosol dispensers intended for the production of synthetic foams.

### **3 Exemptions**

<sup>1</sup> The prohibition in accordance with Number 2 paragraph 1 letter a, does not apply to:

- a. the import of articles that are only finished or repackaged in Switzerland and are then re-exported in their entirety;
- b. the placing on the market of bottle crates that have been manufactured principally with granules recovered from bottle crates;
- c. the placing on the market of window frames that have been manufactured using granules recovered from window frames.

<sup>2</sup> On receipt of a justified request, the FOEN may allow a temporary exemption from the prohibition under Number 2 paragraph 1 letter a in other cases where the circumstances are similar to those in paragraph 1 letters b or c.

<sup>3</sup> The prohibitions in accordance with Number 2 paragraph 1 letter c do not apply if the state of the art is such that it is impossible to guarantee the thermal insulation required with other materials. After consulting the groups concerned and the cantons, the FOEN issues the enforcement authorities with recommendations on the state of the art.

<sup>4</sup> On receipt of a justified request, the FOEN may allow a temporary exemption from the prohibitions in accordance with Number 2 paragraph 1 letter b or c if:

- a. the state of the art is such that substitution is not possible; and
- b. the quantity of substances that deplete the ozone layer or substances that are stable in air used does not exceed the quantity required by the state of the art.

<sup>5</sup> The prohibition in accordance with Number 2 paragraph 1 letter e does not apply to the placing on the market of retreaded tyres if their treads contain extender oils that comply with the limits in Number 2 paragraph 1 letter d.

### **4 Special labelling**

<sup>1</sup> Manufacturers of synthetic foams must inform the purchasers, by means of a label or in an equivalent written form, of the products used as the blowing agent.

<sup>81</sup> OJ. L 262 of 27.9.1976, p. 201, last amended by Directive 2005/90/EC (OJ. L 33 of 4.2.2006, p. 28).

<sup>2</sup> This information must appear in at least two official languages, be clearly legible and indelible.

## **5 Notification obligation**

Manufacturers of synthetic foams manufactured with substances that are stable in air must send the following information to the FOEN each year by 31 March at the latest:

- a. the type and quantity of synthetic foams supplied in Switzerland during the previous year; the data must be categorised according to the origin of the products: imported or manufactured in Switzerland;
- b. the type and quantity of substances that are stable in air contained in the synthetic foams supplied.

## **6 Transitional provisions**

<sup>1</sup> The import prohibition in accordance with Number 2 paragraph 1 letter b does not apply to the import of the following:

- a. refrigerators, water heaters and hot water tanks that contain synthetic foams containing partly halogenated chlorofluorocarbons (Annex 1.4) if these appliances were manufactured before 1 January 2000;
- b. motor vehicles containing synthetic foams manufactured with fully halogenated chlorofluorocarbons (Annex 1.4), or replacement parts and accessories intended for these vehicles and containing foams of this type, if they were manufactured before 1 October 1994;
- c. integral synthetic foams that were manufactured with partly halogenated chlorofluorocarbons and are used for protection if they were manufactured before 1 January 2000.

<sup>2</sup> The prohibition on use in accordance with Number 2 paragraph 1 letter c does not apply to the use of synthetic foams manufactured with substances that are stable in air or articles containing these foams if they were supplied before 1 January 2004.

<sup>3</sup> The bans in accordance with Number 2 paragraph 1 letter d apply from 1 January 2010 to the placing on the market and the use of extender oils for the manufacture of tyres or tyre components.

<sup>4</sup> The prohibition in accordance with Number 2 paragraph 1 letter e does not apply to the placing on the market of tyres and treads for retreads that have been manufactured before 1 January 2010.

## Refrigerants

### 1 Definitions

<sup>1</sup> Refrigerants are substances and preparations in appliances or installations that carry heat from a lower temperature to a higher temperature.

<sup>2</sup> Refrigerants that contain substances that deplete the ozone layer (Annex 1.4) are refrigerants that deplete the ozone layer.

<sup>3</sup> Refrigerants that contain substances that are stable in air (Annex 1.5) are refrigerants stable in air.

<sup>4</sup> Modification of the cold producing part of existing installations is regarded as equivalent to the supply of installations.

<sup>5</sup> Permanently installed air conditioning appliances are appliances and not installations.

### 2 Manufacture, placing on the market, import and export

#### 2.1 Prohibitions

<sup>1</sup> It is prohibited to manufacture, place on the market, import on a private basis and export:

- a. refrigerants that deplete the ozone layer;
- b. appliances and installations using refrigerants that deplete the ozone layer.

<sup>2</sup> It is prohibited to manufacture, place on the market or import on a private basis the following appliances and installations using refrigerants that are stable in air:

- a. domestic refrigeration and freezer appliances;
- b. dehumidifiers;
- c. air conditioners;
- d. air conditioning systems used in motor vehicles.

<sup>82</sup> Revised according to No. 13 of the Ordinance of 15 Dec. 2005, in force since 1 March 2007 (AS 2007 111) and Annex No. 2 of the Ordinance of 14 Jan. 2009, in force since 1 Feb. 2009 (AS 2009 401).

## **2.2 Exemptions**

<sup>1</sup> The prohibitions in accordance with Number 2.1 paragraph 1 letter b do not apply to the supply, import and export of appliances that already belong to a private household.

<sup>2</sup> The prohibitions in accordance with Number 2.1 paragraph 2 letters a to c do not apply to the supply and import of appliances that already belong to a private household.

<sup>3</sup> The prohibitions in accordance with Number 2.1 paragraph 2 letters b to d do not apply if:

- a. the state of the art is such that substitution is not possible; and
- b. state-of-the-art measures to avoid emissions of refrigerant have been taken.

<sup>4</sup> On receipt of a justified request, the FOEN may allow temporary exemptions from the prohibitions in accordance with Number 2.1 if:

- a. the state of the art is such that substitution is not possible; and
- b. state-of-the-art measures to avoid emissions of refrigerant have been taken.

## **2.3 Information for purchasers and specialists**

<sup>1</sup> Manufacturers and traders of refrigeration and freezer appliances must inform the purchasers, by means of marking or in an equivalent written form in at least two official languages, about the refrigerant contained in the appliance.

<sup>2</sup> The manufacturer must indicate the type and quantity of refrigerant used; this information must appear on the appliance or the installation and must be unambiguous for specialists.

<sup>3</sup> The markings in accordance with of paragraphs 1 and 2 must be clearly legible and indelible.

## **2.4 Requirements for the supply of refrigerants**

<sup>1</sup> Refrigerants may only be supplied to purchasers who fulfil the requirements stipulated in Article 7 paragraph 1 letter b on the use of refrigerants.

<sup>2</sup> Single quantities of more than 100 g of refrigerants that deplete the ozone layer or are stable in air may only be supplied in reusable containers.

## **3 Use**

### **3.1 Duty of diligence**

Any person who uses refrigerants or appliances or installations containing them must ensure that the refrigerants cannot endanger the environment.

## **3.2 Filling with refrigerants that deplete the ozone layer**

### **3.2.1 Prohibition**

It is prohibited to fill appliances or installations with refrigerants that deplete the ozone layer.

### **3.2.2 Exemptions**

On receipt of a justified request, the FOEN may allow temporary exemptions from the prohibition in accordance with Number 3.2.1 if:

- a. for technical, operational and economic reasons, it is not possible to comply with the prohibition within the deadline; and
- b. the applicant presents a precise plan and schedule for implementing the prohibition.

## **3.3 Compulsory authorisation for stationary installations containing refrigerants stable in air**

<sup>1</sup> The setting up of stationary installations containing more than 3 kg of refrigerants stable in air is subject to authorisation.

<sup>2</sup> The authorisation is granted if:

- a. the state of the art is such that substitute products or processes are not yet available; and
- b. state-of-the-art measures for avoiding emissions have been taken.

<sup>3</sup> The authority responsible for granting the authorisation is:

- a. the competent cantonal authority; or
- b. the competent federal authority for installations in accordance with paragraph 1 that are used in the operation of buildings or installations that are authorised by the Confederation; the collaboration of the FOEN and the cantons in the implementation is governed by Art. 41 paragraphs 2 and 4 of the Federal Act on the Protection of the Environment (EPA).

## **3.4 Leak check**

<sup>1</sup> The owners of the following appliances and installations must arrange for regular leak checks to be carried out, at least at the time of each intervention and each service:

- a. appliances and installations containing more than 3 kg of refrigerants that deplete the ozone layer or refrigerants stable in air;

- b. refrigeration and air conditioning systems used in motor vehicles and containing refrigerants that deplete the ozone layer or refrigerants stable in air.

<sup>2</sup> If a leak is determined, the owner must arrange for the repair of the appliance or installation immediately.

### **3.5 Maintenance booklet**

<sup>1</sup> Owners of appliances and installations containing more than 3 kg of refrigerants must ensure that a maintenance booklet is regularly updated.

<sup>2</sup> The name of the owner of the appliance or installation must appear in the maintenance booklet.

<sup>3</sup> After each intervention or each service, the specialist carrying out the work must record the following information in the maintenance booklet:

- a. the date of the intervention or maintenance operation;
- b. a brief description of the work conducted;
- c. the result of the leak test in accordance with Number 3.4;
- d. the quantity and type of refrigerant removed;
- e. the quantity and type of refrigerant with which the installation has been re-filled;
- f. the name of the company and the specialist's own name and signature.

## **4 Disposal**

Any person who is responsible for the disposal of appliances or installations containing refrigerants must remove the refrigerants from them and dispose of them separately in accordance with regulations.

## **5 Notification obligation**

<sup>1</sup> Any person who has commissioned or is commissioning or decommissioning a stationary installation containing more than 3 kg of refrigerants that deplete the ozone layer or that are stable in air must notify the competent cantonal authority or federal authority accordingly in accordance with Number 3.3 paragraph 3.

<sup>2</sup> The notification must contain the following data:

- a. the date of commissioning or decommissioning;
- b. the type and location of the installation;
- c. the type of refrigerant contained in the installation and its quantity;
- d. in the case of decommissioning: the person receiving the refrigerant.

<sup>3</sup> Specialist companies must take the measures required to draw their clients' attention to the notification obligation.

## **6 Recommendations**

The FOEN lays down recommendations intended for the enforcement authorities and concerning:

- a. the state of the art in accordance with Number 3.3 paragraph 2;
- b. the leak test in accordance with Number 3.4;
- c. the maintenance booklet in accordance with Number 3.5.

## **7 Transitional provisions**

<sup>1</sup> The manufacture, placing on the market and export of refrigerants containing partially halogenated chlorofluorocarbons (Annex 1.4) and the refilling of appliances or installations with them continues to be authorised until 31 December 2009.

<sup>2</sup> The manufacture, placing on the market and export of refrigerants containing reclaimed partially halogenated chlorofluorocarbons and the refilling of appliances or installations with them continues to be authorised until 31 December 2014.

<sup>3</sup> The placing on the market, import on a private basis and the export of appliances and installations containing refrigerants containing partially halogenated chlorofluorocarbons (Annex 1.4) which were manufactured before 1 January 2002 is authorised.

<sup>4</sup> The prohibitions in accordance with Number 2.1 paragraph 2 concerning the placing on the market and the import on a private basis do not apply to domestic refrigeration and freezer appliances, dehumidifiers or air conditioners manufactured before 1 January 2005.

<sup>5</sup> Compulsory authorisation in accordance with Number 3.3 paragraph 1 comes into effect on 1 January 2013 for industrially manufactured heat pumps with a permanently closed refrigerant cycle used in residential buildings.

## **Extinguishing agents**

### **1 Definitions**

<sup>1</sup> Extinguishing agents containing substances that deplete the ozone layer (Annex 1.4) are extinguishing agents that deplete the ozone layer.

<sup>2</sup> Extinguishing agents containing substances that are stable in air (Annex 1.5) are extinguishing agents stable in air.

<sup>3</sup> The conversion of existing installations is regarded as equivalent to placing installations on the market.

### **2 Placing on the market and import on a private basis**

#### **2.1 Prohibition**

It is prohibited to place on the market and import on a private basis extinguishing agents that deplete the ozone layer or that are stable in air, or appliances or installations containing such extinguishing agents.

#### **2.2 Exemptions**

The prohibitions in accordance with Number 2.1 do not apply:

- a. to supply for the purposes of reclaiming;
- b. to the import of portable extinguishers by individuals if they use them only in their own vehicle;
- c. to the re-import of extinguishing agents for which there is proof that they were exported in order to be reclaimed;
- d. if the state of the art with regard to fire prevention is such that the protection of passengers in aeroplanes, special army vehicles or in nuclear installations cannot be sufficiently guaranteed without the use of extinguishing agents that deplete the ozone layer or that are stable in air; the FOEN may in other similar cases grant a temporary exemption for the owners of individual objects.

### **3 Export**

<sup>1</sup> Extinguishing agents that deplete the ozone layer may be exported only after the recipient has confirmed to the exporter that these extinguishing agents are intended exclusively for uses for which the state of the art is such that substitution is not possible in the destination country. This confirmation must state the intended location, type and intended use of the installation in which the extinguishing agent is to be used.

<sup>2</sup> Waste from extinguishing agents that deplete the ozone layer may be exported only if such waste is intended for neutralisation, disposal or re-import to Switzerland after being treated.

### **4 Use**

Extinguishing agents that deplete the ozone layer or are stable in air must not enter the environment, except when used to combat fires. In particular, it is prohibited to use these products during exercises and tests.

### **5 Recommendations**

The FOEN issues recommendations to the enforcement authorities on the export and adequate disposal of extinguishing agents that deplete the ozone layer.

## **6 Appliances and installations containing extinguishing agents that deplete the ozone layer or that are stable in air**

### **6.1 Informing the FOEN**

Owners of appliances containing more than 8 kg of extinguishing agents that deplete the ozone layer or that are stable in air and owners of installations containing extinguishing agents of this type must send the following information to the FOEN:

- a. the type and location of the appliances and installations;
- b. their purchase or installation date;
- c. the type and quantity of extinguishing agent;
- d. the type of object protected;
- e. in the case of decommissioning of appliances or installations: the date of their decommissioning and the person receiving the extinguishing agent.

## 6.2 Maintenance

<sup>1</sup> Owners of appliances containing extinguishing agents that deplete the ozone layer or that are stable in air must have these appliances serviced by a specialist every three years.

<sup>2</sup> Owners of installations containing extinguishing agents that deplete the ozone layer or that are stable in air must have their installations serviced by a specialist once a year.

## 7 Notification obligation

1 Any person who supplies, takes delivery of, or exports extinguishing agents that deplete the ozone layer or that are stable in air, or appliances or installations containing them, must send the following information relating to the previous year to the FOEN each year, by 31 March at the latest:

- a. the type and number of appliances and installations supplied;
- b. the quantity of extinguishing agents supplied with the appliances;
- c. the quantity of extinguishing agents supplied for use in the appliances and installations;
- d. the quantity of extinguishing agents received from owners at the time of de-commissioning of their appliances and installations;
- e. the quantity of spent extinguishing agents that have been sent for treatment;
- f. the quantity of extinguishing agents re-imported after being recycled abroad (No. 2.2 letter c).

<sup>2</sup> The information must be categorised according to:

- a. existing and new appliances and installations;
- b. the type of extinguishing agent;
- c. the treatment method.

<sup>3</sup> Any person who exports extinguishing agents that deplete the ozone layer must, at the time of export at the latest, inform the FOEN of the quantity exported and provide the confirmation obtained in accordance with Number 3 paragraph 1.

## Aerosol dispensers

### 1 Definitions

<sup>1</sup> Aerosol dispensers are non-refillable metal, glass or plastic containers containing a compressed or liquid gas or gas dissolved under pressure, with or without liquid, paste or powder. They are equipped with an outlet device allowing the discharge of the contents in the form of a gas or solid or liquid particles suspended in a gas as a foam, paste or powder or in a liquid state. They may comprise one or more compartments.

<sup>2</sup> Extremely flammable substances, highly flammable substances and flammable substances within the meaning of Article 4 letters c to e of the Chemicals Ordinance of 18 May 2005<sup>84</sup> (ChemO).

<sup>3</sup> Entertainment or decoration purposes are fulfilled in particular by aerosol dispensers that produce the following effects:

- a. metallic glitter;
- b. artificial snow and frost;
- c. rude noise dispensers;
- d. imitation excrement and stink bombs;
- e. horns for parties;
- f. decorative foams and flakes;
- g. artificial cobwebs.

### 2 Prohibitions

<sup>1</sup> It is prohibited to manufacture or import on a professional or commercial basis aerosol dispensers containing substances that deplete the ozone layer (Annex 1.4) or substances stable in air (Annex 1.5).

<sup>2</sup> It is prohibited to manufacture, place on the market, import on a private basis and to use aerosol dispensers if they contain:

- a. vinyl chloride; or
- b. liquid-phase bases or acids, or solvents, and must be labelled with the following risk phrases pursuant to Annex 1 Number 2.1 of the Ordinance on Chemical Products:

<sup>83</sup> Revised according to No. 13 of the Ordinance of 15 Dec. 2005, in force since 1 March 2007 (AS 2007 111).

<sup>84</sup> SR 813.11

R 23,  
R 26,  
R 34,  
R 35,  
R 41.

<sup>3</sup> It is prohibited to supply the general public with aerosol dispensers intended for entertainment or decoration purposes that contain combustible substances.

### 3 Exemptions

<sup>1</sup> The prohibitions in accordance with Number 2 paragraph 1 do not apply to medicinal products and medical devices if:

- a. the state of the art is such that substitution is not possible; and
- b. the quantity used of substances that deplete the ozone layer or substances stable in air does not exceed the quantity required by the state of the art.

<sup>2</sup> The prohibitions in accordance with Number 2 paragraph 1 do not apply to aerosol dispensers containing substances stable in air intended for the production of expanding foams or for cleaning installations and appliances under electrical tension if:

- a. the state of the art is such that substitution is not possible;
- b. the quantity of substances stable in air used does not exceed the quantity required by the state of the art; and
- c. only those substances stable in air with the shortest possible lifetime in air are used.

<sup>3</sup> The prohibition in accordance with Number 2 paragraph 3 does not apply to the aerosol dispensers mentioned in Article 9a of Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers<sup>85</sup> and which fulfil the requirements defined in this Art..

<sup>4</sup> On receipt of a justified request and in agreement with the FOPH, the FOEN may allow a manufacturer a temporary exemption from the prohibitions in accordance with Number 2 paragraph 1 for aerosol dispensers containing substances stable in air intended for uses other than those mentioned in paragraphs 1 and 2 if:

- a. the state of the art is such that substitution is not possible;
- b. the quantity used of substances stable in air does not exceed the quantity required by the state of the art; and
- c. only those substances stable in air with the shortest possible lifetime in air are used.

<sup>85</sup> OJ L 147 of 9.6.1975, p.40, last amended by Directive 94/1/EC (OJ L 23 of 28.1.1994, p.28). The texts of the European Union legal documents mentioned in this Annex may be obtained against payment or consulted free of charge at the Chemicals Notification Authority, 3003 Bern; they may also be accessed on the Internet at [www.cheminfo.ch](http://www.cheminfo.ch).

## 4 Special labelling

<sup>1</sup> Aerosol dispensers containing fully halogenated chlorofluorocarbons (Annex 1.4) must be labelled with indications as to the chlorofluorocarbon content as a volumetric percentage.

<sup>2</sup> Aerosol dispensers in accordance with Number 2 paragraph 3 must bear the inscription: "For professional users only".

<sup>3</sup> The indications in accordance with paragraphs 1 and 2 must appear in at least two official languages and be clearly legible and indelible.

## 5 Notification obligation

Manufacturers who themselves fill aerosol dispensers with substances that deplete the ozone layer or substances stable in air and importers of these aerosol dispensers must send information on the quantities of the different substances used during the previous year to the FOEN by 30 June of each year at the latest; the data must be sub-divided to show importation, consumption within the country and exportation, as well as intended uses.

## 6 Recommendations

The FOEN issues the enforcement authorities with recommendations on the state of the art with regard to:

- a. medicinal products and medical devices in accordance with Number 3 paragraph 1: in agreement with the Swiss Agency for Therapeutic Products (Swissmedic) and after consulting the groups concerned;
- b. aerosol dispensers in accordance with Number 3 paragraph 2: after consulting the groups concerned.

*Annex 2.13*  
(Art. 3)

## **Fuel additives**

### **1 Definition**

Fuel additives are substances or preparations that are added to fuels, especially to improve combustion or to improve shelf-life during storage.

### **2 Special labelling**

<sup>1</sup> The packaging of fuel additives must bear the inscription that the additive may not be used as “extra-light” heating oil if it contains:

- a. halogen compounds or heavy metal compounds (with the exception of iron compounds); or
- b. substances such as magnesium compounds which distort the results of measurements of soot numbers in the inspection of oil-fired heating systems.

<sup>2</sup> This information must appear in at least two official languages, be clearly legible and indelible.

### **3 Additions to combustibles**

The addition of additives to combustibles is governed by Annex 5 of the Ordinance of 16 December 1985<sup>86</sup> on Air Pollution Control.

<sup>86</sup> SR 814.318.142.1

## Condensers and transformers

### 1 Definitions

<sup>1</sup> Condensers and transformers containing pollutants are condensers and transformers containing:

- a. halogenated aromatic substances, such as polychlorinated biphenyls (PCBs), halogenated diarylalkanes or halogenated benzenes; or
- b. substances or preparations with impurities which exceed 500 ppm monohalogenated aromatic substances or 50 ppm polyhalogenated aromatic substances.

<sup>2</sup> Condensers constructed in or before 1982 are deemed to contain pollutants unless their owner has provided credible proof to the contrary.

### 2 Prohibitions

<sup>1</sup> It is prohibited to place on the market or to import on a private basis condensers and transformers containing pollutants.

<sup>2</sup> It is also prohibited to use:

- a. condensers containing pollutants and with a total weight in excess of 1 kg;
- b. transformers containing pollutants.

*Annex 2.15<sup>87</sup>*  
(Art. 3, 16)

## Batteries and Accumulators

### 1 Definitions

<sup>1</sup> Batteries are sources of electricity that convert chemical energy directly into electrical energy and which consist of one or more non-rechargeable cells.

<sup>2</sup> Accumulators are sources electricity that convert chemical energy directly into electrical energy and which consist of one or more rechargeable cells.

<sup>3</sup> Accumulators weighing less than 1 kg are small accumulators.

<sup>4</sup> Articles from which the batteries or accumulators can be removed by the consumer only with difficulty are articles containing non-removable batteries or accumulators.

### 2 Prohibitions

#### 2.1 Mercury and cadmium in batteries and accumulators

<sup>1</sup> It is prohibited for a manufacturer to place on the market the following types of batteries and accumulators if their content of mercury or cadmium exceeds the following maximum values:

Type	Maximum percentage value by weight	
	Mercury	Cadmium
Zinc-carbon batteries	0.0005	0.015
Alkaline manganese batteries	0.0005	–

<sup>2</sup> It is prohibited for the manufacturer to place on the market button batteries or button accumulators that have a mercury content of more than 2% by weight.

#### 2.2 Nickel-cadmium accumulators for electric vehicles

<sup>1</sup> It is prohibited to place on the market nickel-cadmium accumulators for electric vehicles in accordance with Directive 2000/53/EC of the European Parliament and

<sup>87</sup> Revised according to Annex 3 No. II 8 of the Ordinance of 22 June 2005 on Movements of Waste (SR **814.610**) and No. 13 of the Ordinance of 15 Dec. 2006, in force since 1 March 2007 (AS **2007** 111).

of the Council of 18 September 2000 on end-of life vehicles<sup>88</sup>, that come under categories M<sub>1</sub> or N<sub>1</sub> of Annex II section A of Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers<sup>89</sup>.

<sup>2</sup> It is also prohibited to place on the market new electric vehicles in accordance with paragraph 1 with nickel-cadmium accumulators.

### **2.3 Articles containing non-removable batteries or accumulators**

It is prohibited to place on the market articles containing non-removable batteries or accumulators that contain more than 0.0005% of mercury by weight, 0.0005% of cadmium by weight or 0.1% of lead by weight.

## **3 Exemptions**

<sup>1</sup> The prohibitions in accordance with Nos. 2.1 to 2.3 do not apply to the import of goods that are only finished or repackaged in Switzerland and are then re-exported in their entirety.

<sup>2</sup> The prohibition in accordance with Number 2.3 does not apply to articles containing non-removable batteries or accumulators if:

- a. replacement is common and is provided for by specialist shops; or
- b. the safety of the user or a principal purpose of the object requires non-removable batteries or accumulators and these contain the lowest possible quantities of mercury, cadmium or lead. This exemption is based on the provisions of Annex II of Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances<sup>90</sup>.

<sup>88</sup> OJ L 269 of 21.10.2000, p.34, last amended by Commission Decision 2005/673/EC dated 20 September 2005 (OJ. L 254 dated 30.9.2005, p. 69). The texts of the European Union legal documents mentioned in this Annex can be obtained against payment or consulted free of charge at the Chemicals Notification Authority, 3003 Bern; they can also be accessed on the Internet at [www.cheminfo.ch](http://www.cheminfo.ch).

<sup>89</sup> OJ L 42 of 23.2.1970, p 1, as amended by Directive 2001/56/EC (OJ L 292 of 9.11.2001, p.21)

<sup>90</sup> OJ L 78 of 26.3.1991, p.38.

## 4 Information

### 4.1 Special labelling and instructions for use

<sup>1</sup> The marking of batteries and accumulators must include indications as to the name of the manufacturer or the registered trademark in accordance with the Trademarks Protection Act of 28 August 1992<sup>91</sup> or the Madrid Agreement concerning the international registration of trademarks, revised in Stockholm on 14 July 1967<sup>92</sup>.

<sup>2</sup> In the case of batteries and accumulators containing more than 0.025% of cadmium by weight, more than 0.4 % of lead by weight or more than 25 mg of mercury per cell, the marking must also include permanent indications as to their heavy metal content and the required method for their disposal. This information must comply with the provisions of Commission Directive 93/86/EEC of 4 October 1993<sup>93</sup> adapting to technical progress Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances.

<sup>3</sup> The marking requirements in accordance with paragraphs 1 and 2 do not apply to button batteries and button accumulators that are supplied without packaging. If button batteries and button accumulators are supplied with packaging, they must carry the required information on the packaging.

<sup>4</sup> If batteries or accumulators are supplied packaged, the information referred to in paragraphs 1 and 2 must also appear on the packaging; this provision does not apply to transparent packaging through which the entire instructions on the battery or accumulator are clearly visible and legible.

<sup>5</sup> The instructions for use of articles containing fixed batteries or accumulators must contain information similar to that described in paragraph 2.

### 4.2 Points of sale and advertising

<sup>1</sup> At the points of sale for batteries and accumulators, it must be clearly stated, in a clearly visible location, that:

- a. spent batteries and accumulators must be collected separately or disposed of at a point of sale or at a collection point or collection centre for batteries and accumulators;
- b. spent batteries and accumulators are collected at this point of sale; and
- c. batteries and accumulators are subject to a charge intended to finance their disposal.

<sup>2</sup> Advertising for batteries and accumulators must inform the consumer of the obligation to return spent batteries and accumulators.

<sup>91</sup> SR 232.11

<sup>92</sup> SR 0.232.112.3

<sup>93</sup> OJ L 264 of 23.10.1993, p.51

## **5 Obligation to return and to take back**

### **5.1 Return obligation**

Consumers must hand over spent batteries and accumulators to a person who is obliged to take them back or to a battery and accumulator collection point or collection centre.

### **5.2 Take-back obligation**

<sup>1</sup> Traders who supply batteries or accumulators weighing not more than 5 kg must take back, free of charge, all batteries and all accumulators of this type brought in by the consumer.

<sup>2</sup> Traders who supply batteries and accumulators weighing more than 5 kg must take back batteries and accumulators brought in by the consumer which are of the type that they supply.

<sup>3</sup> Manufacturers are subject to the obligations in accordance with paragraphs 1 and 2 in relation to traders and consumers.

## **6 Special requirements relating to small nickel-cadmium accumulators**

### **6.1 Objective relating to the cadmium part in municipal solid waste**

<sup>1</sup> The cadmium part of small nickel-cadmium accumulators in municipal solid waste must not exceed 3000 kg a year averaged over three successive years.

<sup>2</sup> The cadmium part in accordance with paragraph 1 is calculated as follows: quantity of small nickel-cadmium accumulators supplied minus the quantity of small nickel-cadmium accumulators recycled or exported during the reference year multiplied by 0.16 (mean cadmium content of small nickel-cadmium accumulators). The quantities notified in accordance with Number 8 paragraphs 1 and 2 form the basis for this calculation.

<sup>3</sup> Each year, the FOEN determines whether the objective laid down in paragraph 1 can be achieved.

### **6.2 Introduction of a deposit**

<sup>1</sup> If it is shown that the objective stipulated in Number 6.1, paragraph 1 cannot be achieved, DETEC may order manufacturers and traders to levy a deposit on the small nickel-cadmium accumulators that they supply.

<sup>2</sup> If DETEC orders the levying of a deposit, it must stipulate that:

- a. the amount of the deposit depends on the weight of the small nickel-cadmium accumulators:
  1. 3 francs for weights up to 50 g,
  2. 5 francs for weights up to 100 g,
  3. 10 francs for weights up to 250 g,
  4. 20 francs for weights up to 1 kg.
- b. the FOEN may exempt from the obligation to levy a deposit, for a specific period, manufacturers and traders who guarantee a minimum return rate of 80% by weight using other methods;
- c. the deposit must be stated on small nickel-cadmium accumulators or notified in some other appropriate way;
- d. whenever they take back returnable small nickel-cadmium accumulators, manufacturers and traders must reimburse the deposit at all points of sale where they supply these accumulators; if they stop supplying returnable small nickel-cadmium accumulators, they must continue to reimburse the deposit for a five-year period.

<sup>3</sup> If DETEC orders the payment of a deposit, it may require the FOEN to appoint a suitable private organisation to manage deposit returns (payment centre) and to monitor this organisation. In this case, it must also lay down the following requirements:

- a. the manufacturer must give the payment centre the surplus resulting from the deposit payments;
- b. the payment centre must use the excess primarily to cover losses made by manufacturers and traders in returning the deposit and to take measures to encourage the recovery of small sealed nickel-cadmium accumulators;
- c. the manufacturer must pass on to the payment centre all information required relating to deposit returns;
- d. the payment centre must provide the FOEN with all information required and allow it to consult the files.

## **7 Prepaid disposal fee**

### **7.1 Liability for the fee**

<sup>1</sup> Manufacturers who supply batteries, accumulators or articles containing non-removable batteries or accumulators intended for use in Switzerland must pay a private organisation appointed by the FOEN (organisation) a prepaid disposal fee (fee) for these batteries or accumulators (batteries or accumulators subject to the fee).

<sup>2</sup> Batteries and accumulators weighing more than 5 kg are not subject to the fee.

## **7.2 Amount of the fee**

The fee ranges from 10 centimes to 7 francs per kilogram of batteries and accumulators subject to the fee. DETEC sets the amount of the fee depending on the likely costs of the activities described in Number 7.4.

## **7.3 Notification obligation and deadline**

<sup>1</sup> Persons liable are required to notify the organisation, in accordance with its requirements and generally once a month, of the quantity of batteries and accumulators subject to the fee that have been supplied, sub-dividing this information according to the criteria that determine the amount of fee payable.

<sup>2</sup> The organisation invoices the persons liable for the fee for the batteries and accumulators subject to the fee that they have supplied. The fee is payable on receipt of the invoice by the persons liable. The payment period is 30 days. Penalty interest payments are due in the case of late payment; the organisation may pay interest to reward early payments.

<sup>3</sup> If the organisation instructs the Federal Customs Administration to collect the fee, customs legislation applies by analogy to the collection, the due date and the interest.

## **7.4 Allocation of the revenue from fees**

The organisation is authorised to allocate revenue from fees only to the following activities:

- a. the collection and transport of batteries and accumulators;
- b. the recycling of batteries and accumulators in accordance with the state of the art, provided that there is proof of this recycling;
- c. providing information, in particular to encourage the recovery of batteries and accumulators; this activity must represent no more than 15% of the annual fee revenue;
- d. its own activities within the framework of its mandate from the FOEN;
- e. administration costs of the FOEN for the enforcement of Number 7.

## **7.5 Payments to third parties**

<sup>1</sup> Any person who applies to the organisation for payments for the activities listed in Number 7.4 is required to submit a reasoned application by 31 March of the following year at the latest. The organisation may specify the information required in the application.

<sup>2</sup> The organisation makes payments to third parties only if they carry out the activities concerned in an appropriate and financially satisfactory way. It may carry out checks to monitor these requirements.

<sup>3</sup> The organisation makes payments for the activities described in Number 7.4 letters a to c, depending on the resources available.

## **7.6 Organisation**

<sup>1</sup> The FOEN appoints a suitable private organisation to collect the fee, administer it and allocate the revenue obtained from it. The organisation itself must not carry out any economic activities related to the manufacture, import, sale or recycling of batteries or accumulators.

<sup>2</sup> The FOEN concludes a contract with the organisation for a maximum five-year term. This contract specifies in particular the share of fee revenue that the organisation may allocate to its own activities and regulates the conditions and consequences of premature termination.

<sup>3</sup> The organisation must appoint independent third parties to audit the accounts. It must provide them with all the necessary information and allow them to look at its files.

<sup>4</sup> The organisation must guarantee that professional secrecy will be observed with regard to the persons liable to the fee and the disposal companies.

<sup>5</sup> The Federal Customs Administration may inform the organisation of the information in the customs declarations and of other information connected with the import or export of batteries and accumulators.

<sup>6</sup> The organisation may arrange with the Federal Customs Administration for the fee to be collected on import.

## **7.7 Supervision of the organisation**

<sup>1</sup> The FOEN monitors the organisation. It may give it instructions, in particular with regard to the allocation of the fee revenue.

<sup>2</sup> The organisation must provide the FOEN with all the necessary information and allow it to look at its files.

<sup>3</sup> It must submit to the FOEN, by 30 June each year at the latest, a report on its activities during the previous year. This report must contain in particular:

- a. the annual accounts;
- b. the report by the independent third party responsible for auditing the accounts;
- c. the number of batteries and accumulators subject to fee that were supplied during the previous year, sub-divided according to the criteria determining

the amount of fee payable and also the recovery rate for batteries and accumulators subject to the fee;

- d. a list showing the allocation of the fee revenue, sub-divided according to the amount, purpose and the beneficiaries.

<sup>4</sup> The FOEN publishes the report, excluding information subject to professional secrecy or manufacturing secrecy or which would allow deduction of this type of information.

## **7.8 Procedure and administration of justice**

<sup>1</sup> The organisation issues decisions on requests for payments to be made to third parties.

<sup>2</sup> The organisation's decisions may be contested by an appeal to the Chemicals Appeals Commission.

## **8 Notification obligations**

<sup>1</sup> Manufacturers are required to inform the FOEN, by 30 April of each year at the latest, of the quantity of batteries and accumulators subject to the fee (No. 7.1, para. 1) that were supplied in the previous year for national consumption. The information must be sub-divided according to the requirements of the FOEN, in particular by type of battery or accumulator and by pollutant.

<sup>2</sup> The information in accordance with paragraph 1 need not be submitted if it has already been submitted pursuant to Number 7.3, paragraph 1.

<sup>3</sup> Collectors who hold an authorisation entitling them under Article 8 paragraph 1 of the Ordinance of 22 June 2005<sup>94</sup> on Movements of Waste to accept batteries and accumulators must provide information, by 30 April of each year at the latest, as follows:

- a. to the FOEN: the quantities of spent small nickel-cadmium accumulators that have been recycled or exported during the previous year;
- b. to the organisation: the quantities of batteries and accumulators subject to the fee that have been recycled or exported during the previous year.

## **9 Specific tasks of the cantons**

The cantons ensure compliance with the requirements referred to in Number 4.2.

<sup>94</sup> SR 814.610

## **10 Transitional provisions**

<sup>1</sup> The prohibition under Number 2.2 paragraph 1 comes into force on 1 August 2009.

<sup>2</sup> By way of derogation from paragraph 1, the prohibition of 2.2, paragraph 1 does not apply to nickel-cadmium accumulators placed on the market as replacement parts for electric vehicles in accordance with paragraph 3.

<sup>3</sup> The prohibition under Number 2.2, paragraph 2 does not apply to electric vehicles placed on the market for the first time in Switzerland or in a member state of the European Union (EU) or the European Free Trade Association (EFTA) before 1 January 2009.

<sup>4</sup> Until 31 December 2005, lead accumulators up to a weight of 5 kg:

- a. must be taken back in accordance with Number 5.2, paragraph 2;
- b. are exempt from the prepaid disposal fee under Number 7.1, paragraph 1.

## Special provisions relating to metals

### 1 Chromium(VI) in cements

#### 1.1 Principle

It is prohibited to place on the market and to use cement and preparations containing cement that contain, when hydrated, more than 0.0002% soluble chromium (VI) of the total dry weight of the cement.

#### 1.2 Exemptions

The prohibitions in accordance with Number 1.1 do not apply to placing on the market for the purpose of use and for use in controlled totally automated processes and in processes in which cement and preparations containing cement are handled solely by machines and in which there is no possibility of contact with the skin.

#### 1.3 Special labelling

<sup>1</sup> Cement and preparations containing cement that contain more than 0.0002% soluble chromium (VI) of the total dry weight of the cement must bear the inscription: “Contains chromium(VI). May produce an allergic reaction”.

<sup>2</sup> The inscription specified in paragraph 1 must not be used if, because of other components, preparations containing cement are already classified as sensitising within the meaning of Art. 5 letter f of the Ordinance on Chemical Products of 18 May 2005<sup>96</sup> and need to be labelled with R-phrases R43 according to Annex I Number 2.1 of the Ordinance on Chemical Products.

<sup>3</sup> The marking on the packaging of cements and preparations containing cement that contain reducing agents must include indications as to the following points:

- a. the packing date;
- b. the storage conditions and period appropriate to keeping the content of soluble chromium(VI) below 0.0002% of the total dry weight of the cement.

<sup>4</sup> Paragraph 3 does not apply to placing on the market for uses in accordance with Number 1.2.

<sup>5</sup> The information must appear in at least two official languages and be clearly legible and indelible.

<sup>95</sup> Revised according to No. 13 of the Ordinance of 15 Dec. 2005, in force since 1 March 2007 (AS 2007 111).

<sup>96</sup> SR 813.11

## **2 Cadmium-plated articles**

### **2.1 Definition**

Cadmium-plated articles are:

- a. articles with a cadmium coating on metal surfaces;
- b. articles containing components with a cadmium coating on metal surfaces.

### **2.2 Prohibition**

The manufacture of cadmium-plated articles and their placing on the market by the manufacturer is prohibited.

### **2.3 Exemptions**

<sup>1</sup> The prohibition of placing on the market in accordance with Number 2.2 does not apply to:

- a. antiques;
- b. the import of articles which are only finished or repackaged in Switzerland and are then re-exported in their entirety.

<sup>2</sup> If the state of the art is such that no non-cadmium-plated replacement is available, and provided that no more cadmium is used than is necessary for the article's intended use, the prohibitions in accordance with Number 2.2 do not apply to the following:

- a. aircrafts, missiles, boat engines and their components;
- b. articles requiring both protection against corrosion and sliding properties, in particular electrical contacts, if this is necessary for reasons of reliability;
- c. spare parts for cadmium-plated articles.

<sup>3</sup> On receipt of a justified request, in agreement with the FOPH, the FOEN may allow exemptions for other articles if:

- a. the state of the art is such that no non-cadmium-plated replacement is available; and
- b. no more cadmium is used than is necessary for the intended use of the article.

## **3 Cadmium in zinc-plated articles**

<sup>1</sup> Manufacturers producing zinc-plated articles must ensure that the cadmium content of the applied zinc does not exceed 0.025% by weight.

<sup>2</sup> The level stipulated in paragraph 1 is complied with if the cadmium content of the solution or of the molten weight used for plating does not exceed the level.

<sup>3</sup> Zinc-plated articles must not be imported on a professional or commercial basis if the cadmium content of the zinc applied exceeds the maximum level stipulated in paragraph 1.

<sup>4</sup> Paragraph 3 does not apply to the import of zinc-plated articles which are only finished or repackaged in Switzerland and then re-exported in their entirety.

<sup>5</sup> Nos. 5, 6 and 7 paragraphs 2–5 apply to the placing on the market of vehicle materials and components, vehicles and electrical and electronic appliances and their spare parts that contain zinc-plated components.

## **4 Heavy metals in packaging**

### **4.1 Definitions**

<sup>1</sup> Heavy metals are lead, cadmium, mercury and their compounds and also chromium(VI).

<sup>2</sup> Packaging and packaging components are products made of any materials of any nature to be used for the containment, protection, handling, delivery or presentation of goods.

### **4.2 Prohibition**

It is prohibited for the manufacturer to place on the market packaging or packaging components with a heavy metal content in excess of 100 mg/kg.

### **4.3 Exemptions**

<sup>1</sup> The prohibition in accordance with Number 4.2 does not apply to the following:

- a. packaging made entirely of lead crystal;
- b. glass packaging other than lead crystal if the heavy metal content stipulated in Number 4.2 is exceeded on account of the addition of recycled materials and if heavy metals are not intentionally introduced during the manufacturing process;
- c. caps on bottles containing wine of a vintage prior to 1996;
- d. plastic packaging containing cadmium that complies with Annex 2.9 Number 3 paragraph 1 letter b.

<sup>2</sup> On receipt of a justified request, in agreement with the FOPH, the FOEN may allow exemptions for other packaging. It takes into account decisions made by the European Commission pursuant to Art. 11 paragraph 3 of Directive 94/62/EC of the

European Parliament and of the Council of 20 December 1994 on packaging and packaging waste<sup>97</sup> and technical progress.

## **5 Heavy metals in vehicles**

### **5.1 Definition**

Vehicles are passenger cars and light duty vehicles in accordance with Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles<sup>98</sup> covered by categories M<sub>1</sub> or N<sub>1</sub> of Annex II No. A of Directive 70/156/EEC of the Council of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers<sup>99</sup>.

### **5.2 Prohibitions**

<sup>1</sup> It is prohibited to place on the market new vehicle materials and components that contain more than 0.1 per cent by weight of lead or chromium (VI) or more than 0.01 per cent by weight of cadmium for each homogeneous material.

<sup>2</sup> It is also prohibited to place on the market new vehicles that contain materials or components in accordance with paragraph 1.

<sup>3</sup> ...

<sup>4</sup> The provisions of Number 2 and of Annex 2.9 apply to vehicle components made of cadmium-containing plastics as well as to cadmium-plated vehicle components.

<sup>5</sup> The provisions of Annex 2.15 apply to batteries intended for vehicles and containing cadmium or lead.

### **5.3 Exemptions**

<sup>1</sup> The prohibition under Number 5.2 paragraph 1 does not apply to the vehicle materials and components listed without limitation in Annex II of Directive 2000/53/EC subject to the conditions stated therein.

<sup>2</sup> The prohibition in accordance with Number 5.2 paragraph 2 does not apply to spare parts for vehicles that may still be placed on the market in terms of Number 7 paragraph 4, with the exception of:

<sup>97</sup> OJ L 365 of 31.12.1994, p.10. The texts of the European Union legal documents mentioned in this Annex may be obtained against payment or consulted free of charge at the Chemicals Notification Authority, 3003 Bern; they may also be accessed on the Internet at [www.cheminfo.ch](http://www.cheminfo.ch).

<sup>98</sup> OJ L 269 of 21.10.2000, p.34, last amended by Commission Decision 2005/673/EC dated 20 September 2005 (OJ L 254 dated 30.9.2005, p. 69).

<sup>99</sup> OJ L 42 of 23.2.1970, p.1, as amended by Directive 2000/56/EC (OJ 292 of 9.11.2001, p.21).

- a. balance weights;
- b. carbon brushes;
- c. copper in friction materials for brake pads with a content of more than 0.4 per cent lead by weight.

<sup>3</sup> The prohibition under Number 5.2 paragraph 2 does not apply to vehicles that contain materials or components that may be placed on the market in accordance with paragraph 1.

## **5.4 Special labelling**

Vehicle materials and components must be labelled or otherwise made identifiable in accordance with Annex II of Directive 2000/53/EC.

## **6 Heavy metals in electrical and electronic equipment**

### **6.1 Definition**

The following are electrical and electronic equipment:

- a. equipment in accordance with Art. 3 letter a of Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment<sup>100</sup>, which fall under the categories set out in Annex IA of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment<sup>101</sup> (Directive 2002/96/EC);
- b. electric light bulbs, and household luminaires.

### **6.2 Prohibitions**

<sup>1</sup> New electrical and electronic equipment and new spare parts for the repair of electrical and electronic equipment must not be placed on the market if their materials or components contain more than 0.1 per cent by weight of lead, cadmium or chromium(VI) or more than 0.01 per cent by weight of cadmium for each homogeneous material.

<sup>2</sup> ...

<sup>3</sup> The provisions of Number 2 and of Annex 2.9 apply to components made of cadmium-containing plastics as well as to cadmium-plated components.

<sup>4</sup> The provisions of Annex 2.15 apply to batteries containing cadmium or lead.

<sup>100</sup> OJ L 37 of 13.2.2003, p.19, last amended by Commission Decision 2006/310/EC dated 21 April 2006 (OJ. L 115 dated 28.4.2006, p. 38).

<sup>101</sup> OJ L 37 of 13.2.2003, p.24.

### 6.3 Exemptions

- <sup>1</sup> The prohibition in accordance with Number 6.2 paragraph 1 does not apply to:
- a. electrical and electronic equipment covered by categories 8 (medical devices) and 9 (monitoring and control instruments) in Annex IA of Directive 2002/96/EC;
  - b. electrical and electronic equipment that falls within the equipment categories according to Annex IA of Directive 2002/96/EC, but which are part of a different type of equipment that does not fall within the scope of the Directive;
  - c. electrical and electronic equipment that serves to safeguard the essential security interests of Switzerland or which are solely intended for military purposes;
  - d. electrical and electronic equipment that contains materials or components listed in the Annex to Directive 2002/95/EC under the conditions stated therein.
- <sup>2</sup> The prohibition in accordance with Number 6.2 paragraph 1 does not apply to spare parts for electrical and electronic equipment that may be placed on the market in accordance with paragraph 1 or Number 7 paragraph 5.

### 7 Transitional provisions

- <sup>1</sup> The prohibitions in accordance with Number 1.1 come into force on 1 January 2007.
- <sup>2</sup> The prohibition in accordance with Number 5.2 paragraph 1 does not apply to vehicle materials and components which were placed on the market for the first time in Switzerland or in a member state of the European Union (EU) or the European Free Trade Association (EFTA) before 1 August 2006.
- <sup>3</sup> The prohibition in accordance with Number 5.2 paragraph 1 also does not apply to the vehicle materials and components listed in Annex II to Directive 2000/53/EC if these:
- a. are placed on the market for the first time in Switzerland or in a member state of the EU or EFTA by the deadline stipulated in this Annex; and
  - b. comply with the conditions stipulated in this Annex.
- <sup>4</sup> The prohibition in accordance with Number 5.2 paragraph 2 does not apply to vehicles containing materials or components that have been placed on the market in accordance with paragraphs 2 and 3.
- <sup>5</sup> The prohibition in accordance with Number 6.2 paragraph 1 does not apply to electrical and electronic equipment and spare parts for such equipment that were placed on the market for the first time in Switzerland or in a member state of the European Union (EU) or of the European Free Trade Association (EFTA) before 1 July 2006.

*Annex 2.17*<sup>102</sup>  
(Art. 3)

## Wood-based materials

### 1 Definitions

<sup>1</sup> Wood-based materials are articles produced from wood chips or wood fibres, in particular particle board and fibre board in an untreated or coated form.

<sup>2</sup> Secondary raw material means recycled wood (waste wood) used in the manufacture of wood-based materials.

### 2 Prohibitions

It is prohibited for the manufacturer to place on the market wood-based materials containing the following substances in a content by weight in excess of the following limit values:

Substance	Limit value in milligrams per kilogram of dry matter
Arsen (As)	25
Cadmium (Cd)	50
Lead (Pb)	90
Mercury (Hg)	25
Benzo[a]pyrene (CAS no. 50-32-8)	0.5
Pentachlorophenol (PCP, CAS no. 87-86-5)	5

### 3 Exemptions

<sup>1</sup> The prohibitions in accordance with Number 2 do not apply to the import of wood-based materials which are only finished or repackaged in Switzerland and then re-exported in their entirety.

<sup>2</sup> On receipt of a justified request, in agreement with the FOPH, the FOEN may allow exemptions from the prohibitions in accordance with Number 2 if:

- the exceeding of limit values is not due to the secondary raw material; and
- the wood-based materials do not contain the substances mentioned in a higher quantity than is technically required for their manufacture or necessary for their intended use.

<sup>102</sup> Revised according to No. I of the Ordinance of 13 Feb. 2008 (AS 2008 561).

**4 Transitional provision**

The prohibitions in accordance with Number 2 come into force on 1 August 2006.