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Ordinance on Air Pollution Control (OAPC)

of 16 December 1985 (Status as of 1 January 2018)

The Swiss Federal Council,

on the basis of Articles 12, 13, 16 and 39 of the Federal Act of 7 October 1983¹ on the Protection of the Environment (the Act),

ordains:

Chapter 1 General Provisions

Art. 1 Aim and scope

¹ This Ordinance is intended to protect human beings, animals and plants, their biological communities and habitats, and the soil against harmful effects or nuisances caused by air pollution.

² It regulates:

- a. the preventive limiting of emissions from installations, as defined in Article 7 of the Act, which pollute the air;
- a^{bis},² open-air waste incineration;
- b. requirements for thermal and motor fuels;
- c. maximum permitted ambient air pollution levels (ambient limit values);
- d. the procedure in the event of excessive ambient air pollution levels.

Art. 2 Definitions

¹ *Stationary installations* means:

- a. buildings and other fixed structures;
- b. terrain modifications;
- c. equipment and machines;

AS 1986 208

¹ SR 814.01

² Inserted by No I of the O of 20 Nov. 1991, in force since 1 Feb. 1992 (AS 1992 124).

- d. ventilation systems which collect vehicle exhaust gases and discharge them as waste air into the environment.

² *Vehicles* means motor vehicles, aircraft, ships and railways.

³ *Transport infrastructure* means roads, airfields, railway tracks and other installations where vehicle exhaust gases are released into the environment as waste air without being collected.

⁴ *New installations* also includes installations which are altered, extended or repaired if:

- a. higher or different emissions are to be expected as a result; or
- b. the costs incurred amount to more than half those of a new installation.

⁵ Ambient air pollution levels are *excessive* if one or more of the ambient limit values specified in Annex 7 is exceeded. If no such limit values are specified for a pollutant, ambient air pollution levels shall be considered excessive if:

- a. they endanger human beings, animals, plants or their biological communities or habitats;
- b. a survey establishes that they significantly affect the well-being of a substantial proportion of the population;
- c. they damage buildings; or
- d. they harm soil fertility, vegetation or waters.

⁶ *Placing on the market* means the transfer or disposal for the first time, whether or not for consideration, of equipment or machines for distribution or use in Switzerland. Equivalent to placing on the market is the commissioning, for the first time, of equipment or machines at one's own enterprise in cases where placing on the market has not previously occurred.³

Chapter 2 Emissions

Section 1 Limitation of Emissions from New Stationary Installations

Art. 3 Preventive limiting of emissions in accordance with Annexes 1–4

¹ New stationary installations shall be equipped and operated in such a way that they comply with the emission limits specified in Annex 1.

² Additional or different requirements apply in the case of the following installations:

- a. installations listed in Annex 2: the requirements specified therein;
- b. combustion installations: the requirements specified in Annex 3;

³ Amended by No I of the O of 18 June 2010, in force since 15 July 2010 (AS 2010 2965).

- c.⁴ construction machines and particle filter systems as specified in Article 19a, combustion installations as specified in Article 20 and machinery as specified in Article 20b: the requirements specified in Annex 4.

Art. 4 Preventive emission limits specified by the authorities

¹ Emissions for which no limit is specified in this Ordinance or for which a particular limit is declared not to apply, shall be limited preventively by the authorities as far as is technically and operationally feasible and economically acceptable.

² Emission limitation measures are technically and operationally feasible if they:

- a. have been successfully tested at comparable installations in Switzerland or abroad; or
- b. have been successfully applied in experiments and can be transferred to other installations from a technological perspective.

³ The assessment of the economic acceptability of emission limitations shall be based on an average, economically sound enterprise in the relevant sector. If a particular sector contains widely differing classes of enterprises, the assessment shall be based on an average enterprise of the relevant class.

Art. 5 Stricter emission limits ordered by the authorities

¹ If an individual planned installation is expected to cause excessive ambient air pollution levels even though the preventive emission limitation requirements are met, the authorities shall order additional or stricter emission limitation requirements for the installation concerned.

² The emission limitation requirements are to be supplemented or tightened to such an extent that no excessive ambient air pollution levels are caused.

Art. 6 Capture and removal of emissions⁵

¹ Emissions shall be captured as fully and as close to the source as possible and shall be removed in such a way as to prevent excessive ambient air pollution levels.⁶

² They shall generally be discharged above roof level via stacks or waste air ducts.

³ Annex 6 applies to stacks. If the required stack height H cannot be realised, or if the parameter H₀ is more than 100 m, the authorities shall as an alternative tighten the emission limitation requirements specified in Annexes 1–3.

⁴ Amended by No I of the O of 18 June 2010, in force since 15 July 2016 (AS 2010 2965).

⁵ Amended by No I of the O of 20 Nov. 1991, in force since 1 Feb. 1992 (AS 1992 124).

⁶ Amended by No I of the O of 20 Nov. 1991, in force since 1 Feb. 1992 (AS 1992 124).

Section 2 Limitation of Emissions from Existing Stationary Installations

Art. 7 Preventive limiting of emissions

The provisions concerning the preventive limiting of emissions from new stationary installations (Articles 3, 4 and 6) also apply to existing stationary installations.

Art. 8 Mandatory retrofitting

¹ The authorities shall ensure that existing stationary installations which do not meet the requirements of this Ordinance undergo retrofitting.

² They shall issue the necessary rulings, specifying the time limit for retrofitting in accordance with Article 10. If necessary, they shall order operating restrictions or the shutdown of the installation for the duration of the retrofitting work.⁷

³ Retrofitting need not be carried out if the owner undertakes to shut down the installation within the time limit set for retrofitting.

Art. 9 Stricter emission limits

¹ If it is established that an individual existing installation is causing excessive ambient air pollution levels even if the preventive emission limitation requirements are complied with, the authorities shall order additional or stricter emission limitation requirements for the installation concerned.

² The emission limitation requirements are to be supplemented or tightened to such an extent that excessive ambient air pollution levels are no longer caused.

³ The additional or stricter emission limitation requirements are to be imposed by means of retrofitting rulings with time limits set in accordance with Article 10, paragraph 2. If necessary, the authorities shall order operating restrictions or the shutdown of the installation for the duration of the retrofitting work.

⁴ If excessive ambient air pollution levels are caused by more than one installation, the procedure specified in Articles 31–34 shall be followed.

Art. 10⁸ Time limits for retrofitting

¹ The standard time limit for retrofitting is five years.

² Shorter time limits, but not less than 30 days, shall be set if:

- a. retrofitting can be carried out without significant investments;
- b. emissions are more than three times the value specified for the preventive limiting of emissions; or

⁷ Second sentence inserted by No I of the O of 20 Nov. 1991, in force since 1 Feb. 1992 (AS 1992 124).

⁸ However, see the Final Provisions of the Amendments of 20 Nov. 1991, 15 Dec. 1997 and 23 June 2004 at the end of this text.

c. ambient air pollution levels caused by the installation alone are excessive.

³ Longer time limits, up to a maximum of ten years, shall be set if:

a. emissions are less than one-and-a-half times the value applicable for the preventive limiting of emissions, or the provisions concerning exhaust gas losses are not complied with; and

b. neither letter a nor letter c of paragraph 2 is met.

⁴ The above is without prejudice to the ordering of shorter time limits for retrofitting in accordance with Article 32.

Art. 11 Relief

¹ On request, the authorities shall grant relief to the owner of an installation if retrofitting in accordance with Articles 8 and 10 would be disproportionate, in particular not technically or operationally feasible, or economically unacceptable.

² By way of relief, the authorities may in the first instance grant longer time limits. If the granting of longer time limits is not sufficient, the authorities shall specify less strict emission limits.

Section 3 Control of Stationary Installations

Art. 12 Emission declaration

¹ Any person who operates or wishes to construct an installation which causes air pollution shall provide the authorities with information on:

- a. the type and level of emissions;
- b. the release location, release height and time course of emissions;
- c. other release conditions required for the assessment of emissions.

² The emission declaration may be based on measurements or on material balances of the substances used.

Art. 13 Emission measurements and inspections

¹ The authorities shall monitor compliance with emission limitation requirements. They shall carry out their own emission measurements or inspections or shall have these carried out on their behalf.

² If possible, the first measurement or inspection shall be carried out within three months, but no later than twelve months, after the commissioning of the new or retrofitted installation.

³ The measurement or inspections are generally to be repeated every two years in the case of combustion installations and every three years in the case of other installa-

tions.⁹ This is without prejudice to provisions to the contrary specified in Annexes 2, 3 and 4.¹⁰

⁴ In the case of installations which may produce significant levels of emissions, the authorities shall order continuous measurement and recording of emissions, or of another operating parameter which permits emission control.

Art. 14 Measurement procedures

¹ The measurements must cover the operating conditions which are relevant for assessment purposes. If necessary, the authorities shall specify the type and extent of measurements required and the operating conditions to be covered.

² Emission measurements shall be carried out according to the recognised rules of metrology. The Federal Office for the Environment (FOEN)¹¹ shall recommend suitable measurement methods.¹² The technical requirements for measurement systems and measurement stability are those specified in the Ordinance of 15 February 2006¹³ on Measuring Instruments.¹⁴

³ The owner of the installation to be inspected shall set up and make accessible suitable measuring stations in accordance with instructions issued by the authorities.

⁴ The measured and calculated values, the measurement methods used and the operating conditions at the installation at the time the measurements were performed shall be recorded in a measurement report.

Art. 15 Assessment of emissions

¹ The measured values shall be corrected to the reference values specified in Annex 1 Number 23.

² Unless otherwise specified in Annexes 1–4, the values calculated in accordance with paragraph 1 are to be expressed as hourly mean values for the assessment. In justified cases, the authorities may specify other suitable averaging periods.

³ In the case of approval and control measurements, emission control requirements shall be regarded as having been complied with if none of the mean values determined in accordance with paragraph 2 exceeds the limit value.

⁴ In the case of continuous measurements, emission limit values shall be regarded as having been complied with if, within a calendar year:

- a. none of the daily mean values exceeds the emission limit value;

⁹ Amended by No I of the O of 15 Dec. 1997, in force since 1 March 1998 (AS **1998** 223).

¹⁰ Second sentence Amended by No I of the O of 14 Oct. 2015, in force since 16 Nov. 2015 (AS **2015** 4171).

¹¹ Term in accordance with No I of the O of 18 June 2010, in force since 15 July 2010 (AS **2010** 2965). This amendment was taken into account throughout in the entire text.

¹² Second sentence Amended by No I of the O of 20 Nov. 1991, in force since 1 Feb. 1992 (AS **1992** 124).

¹³ SR **941.210**

¹⁴ Third sentence inserted by No I of the O of 18 June 2010, in force since 15 July 2010 (AS **2010** 2965).