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Ordinance on the Charge for the Remediation of Contaminated Sites (OCRCS)

of 26 September 2008 (Status as of 1 January 2016)

The Swiss Federal Council,

on the basis of Article 32e paragraphs 1, 2 and 5 of the Environmental Protection Act of 7 October 1983¹ (EPA),
and of Article 57 paragraph 2 of the Government and Administration Organisation Act of 21 March 1997²,

ordains:

Chapter 1 Subject Matter

Art. 1

This Ordinance regulates:

- a. the levying of a charge for the deposit of waste in a landfill in Switzerland and on the export of waste for deposit in a landfill abroad;
- b. the use of the income from the charge to provide payments for:
 1. the investigation, monitoring and remediation of polluted sites,
 2. the investigation of sites that are not found to be polluted.

Chapter 2 Charge

Art. 2 Obligation to pay the charge

¹ The holders of landfills must pay a charge on the deposit of waste in a landfill in Switzerland.

² Any person who exports waste for deposit in a landfill must pay a charge. The obligation to pay the charge also applies to waste that is deposited in a landfill abroad following its export for recovery or treatment. The charge is not due if the

AS 2008 4771

¹ SR 814.01

² SR 172.010

waste deposited in the landfill is less than 15 per cent of the quantity of waste exported.

³ ...³

Art. 3 Charge rates

¹ The charge rate for waste deposited in a landfill in Switzerland is:

- a. in the case of Type B landfills: CHF 5 per tonne;
- b. in the case of Type C, D and E landfills: CHF 16 per tonne.⁴

² The charge rate for waste deposited in a landfill abroad is:

- a. in the case of underground landfills: CHF 22 per tonne;
- b. in the case of other landfills: as much as would be charged for the deposit of waste in a landfill in Switzerland.

³ ...⁵

Art. 4 Origin of the right to claim the charge

The charge shall become due at the time of deposit in a landfill in Switzerland or at the time of export.

Art. 5 Charge declaration

¹ Persons required to pay the charge must by the 28 February of each year submit a charge declaration to the Federal Office for the Environment (FOEN) in respect of the charge due for the previous calendar year.

² The declaration must contain all the information required to determine the amount of the charge due. It shall be made on an official form; the FOEN may permit other forms. Holders of landfills must send the canton a copy of the declaration.

³ The declaration serves as the basis for determining the charge due; the right to conduct an official assessment is reserved.

⁴ The persons liable to pay the charge must retain the documents relating to the declaration for a minimum of ten years.

⁵ In the case of a delayed or incomplete declaration, default interest of 3.5 per cent per annum is payable on the amount of the charge due.

³ Repealed by Annex 6 No 10 of the Waste Management Ordinance of 4 Dec. 2015, with effect from 1 Jan. 2016 (AS 2015 5699).

⁴ Amended by Annex 6 No 10 of the Waste Management Ordinance of 4 Dec. 2015, in force since 1 Jan. 2016 (AS 2015 5699).

⁵ Repealed by Annex 6 No 10 of the Waste Management Ordinance of 4 Dec. 2015, with effect from 1 Jan. 2016 (AS 2015 5699).

Art. 6 Charge assessment⁶

¹ The FOEN shall determine the amount of the charge in a ruling.

² If the person required to pay the charge, despite being sent a reminder, fails to submit their charge declaration to the FOEN or if the information required to determine the amount of the charge cannot be ascertained due to a lack of reliable documentation, the FOEN shall make the charge assessment according to its own best judgement.⁷

³ In doing so, the FOEN may base its assessment on the results of its own checks, information from the canton and historical figures.⁸

Art. 6a⁹ Period allowed for payment

¹ The period allowed for payment amounts to 30 days.

² If payment is not made within the period allowed, default interest of 3.5 per cent per annum becomes due.

Art. 7 Additional claim

If the FOEN has erroneously assessed the charge at an amount that is too low, it shall claim the shortfall within two years of issuing its ruling.

Art. 8 Limitation period

¹ The right to claim the charge is limited to ten years from the end of the calendar year in which it arises.

² The limitation period shall be interrupted and begin to run again:

- a. if the person required to pay the charge acknowledges the right to claim the charge;
- b. following any official act by which the right to claim the charge is asserted against the person required to pay the charge.

³ The right to claim the charge is in every case limited to 15 years from the end of the calendar year in which it arises.

⁶ Amended by Annex 6 No 10 of the Waste Management Ordinance of 4 Dec. 2015, in force since 1 Jan. 2016 (AS 2015 5699).

⁷ Amended by Annex 6 No 10 of the Waste Management Ordinance of 4 Dec. 2015, in force since 1 Jan. 2016 (AS 2015 5699).

⁸ Amended by Annex 6 No 10 of the Waste Management Ordinance of 4 Dec. 2015, in force since 1 Jan. 2016 (AS 2015 5699).

⁹ Inserted by Annex 6 No 10 of the Waste Management Ordinance of 4 Dec. 2015, in force since 1 Jan. 2016 (AS 2015 5699).

Chapter 3 Subsidies**Section 1 Subsidy Requirements****Art. 9 Principle**

¹ The Confederation shall pay subsidies to the cantons under Article 32e paragraphs 3 and 4 EPA for:

- a. the investigation, monitoring and remediation of polluted sites;
- b. the investigation, monitoring and remediation of polluted sites at shooting ranges; and
- c. the investigation of sites that are not found to be polluted.

² It shall also pay subsidies for a clearly defined area of a polluted site if that area fulfils the requirements for a subsidy and further measures are not made more difficult or impossible.

Art. 10 Special subsidy requirements for investigation and monitoring measures

¹ For measures for the investigation and monitoring of polluted sites, subsidies shall be paid only if:

- a. the measures were begun after 1 July 1997;
- b. an application for a subsidy for a measure carried out before 1 November 2006 is submitted to the FOEN by 31 December 2010.

² If the person responsible for causing a polluted site cannot be identified or if he is unable to pay (Art. 32e para. 3 let. b no 1 EPA), subsidies shall be paid for investigation and monitoring measures:

- a. if the allowable investigation or monitoring costs amount to over 250 000 francs, provided a legally-binding ruling on the allocation of the costs is submitted;
- b. if the allowable investigation or monitoring costs amount to 250 000 francs or less, provided proper legal justification for the allocation of the costs is provided.

³ For measures for the investigation of sites that are not found to be polluted, subsidies shall be paid only if the investigations were begun after 1 November 2006.

Art. 11 Special subsidy requirements for remediation measures

¹ The Confederation shall pay subsidies for remediation measures only if:

- a. the measures were begun after 1 July 1997;
- b. an application for a subsidy for a measure carried out before 1 November 2006 is submitted to the FOEN by 31 December 2010.