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**Ordinance  
on the Reduction of Risks relating to  
the Use of Certain Particularly Dangerous  
Substances, Preparations and Articles  
(Chemical Risk Reduction Ordinance, ORRChem)**

of 18 May 2005 (Status as of 7 May 2019).

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*The Swiss Federal Council,*

on the basis of Article 2 paragraph 4, 19, 22 paragraph 2, 24, 38, 39 paragraph 2, 44 paragraph 2, 45 paragraphs 2 and 5 and 46 paragraph 1 of the Chemicals Act of 15 December 2000<sup>1</sup> (ChemA),

on the basis of Article 27 paragraph 2, 29, 30a, 30b, 30c paragraph 3, 30d, 32a<sup>bis</sup>, 38 paragraph 3, 39 paragraphs 1 and 1<sup>bis</sup>, 41 paragraph 3, 44 paragraphs 2 and 3, 46 paragraphs 2 and 3, 48 paragraph 2 and 63 paragraph 2 of the Environmental Protection Act of 7 October 1983<sup>2</sup> (EPA),

on the basis of Article 9 paragraph 2 letter c, 27 paragraph 2 and 48 paragraph 2 of the Waters Protection Act of 24 January 1991<sup>3</sup>,

on the basis of Article 15 paragraphs 4 and 5 of the Foodstuffs Act of 20 June 2014<sup>4</sup>, and in implementation of the Federal Act of 6 October 1995<sup>5</sup> on Technical Barriers to Trade,<sup>6</sup>

*ordains:*

## **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 covered by the Annexes;
- b. specifies the personal and professional qualifications required for the use of certain particularly dangerous substances, preparations and articles.

AS 2005 2917

<sup>1</sup> SR 813.1

<sup>2</sup> SR 814.01

<sup>3</sup> SR 814.20

<sup>4</sup> SR 817.0

<sup>5</sup> SR 946.51

<sup>6</sup> Amended by No I of the O of 25 Oct. 2017, in force since 1 Jan. 2018 (AS 2017 5963).

<sup>2</sup> Without prejudice to specific disposal requirements laid down in this Ordinance, substances, preparations and articles which are waste, as defined in Article 7 paragraph 6 EPA, are subject to:

- a.<sup>7</sup> the Waste Management Ordinance of 4 December 2015<sup>8</sup>;
- b.<sup>9</sup> the Ordinance of 22 June 2005<sup>10</sup> on Movements of Waste; and
- c. the Ordinance of 14 January 1998<sup>11</sup> on the Return, Take-Back and Disposal of Electrical and Electronic Equipment.

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

- a. the transport of substances, preparations and articles by road, rail, water, air or pipelines;
- b.<sup>12</sup> the transit of substances, preparations and articles under customs supervision, provided that they do not undergo any processing or transformation.

## Art. 2 Definitions

In this Ordinance, without prejudice to specific definitions given in the Annexes:<sup>13</sup>

- a. *manufacturer* means any natural or legal person who manufactures, extracts or imports substances, preparations or articles on a professional or commercial basis; also deemed to be a manufacturer is 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; if a person arranges for the manufacture of a substance, preparation or article in Switzerland by a third party, this person is deemed to be the sole manufacturer if he is domiciled or has a registered office in Switzerland;
- b. *trader* means any natural or legal person who obtains substances, preparations or articles in Switzerland and supplies them on a commercial basis without altering their composition.

<sup>7</sup> Amended by Annex 6 No 11 of the Waste Management Ordinance of 4 Dec. 2015, in force since 1 Jan. 2016 (AS 2015 5699).

<sup>8</sup> SR 814.600

<sup>9</sup> Amended by Annex 3 No II 8 of the O of 22 June 2005 on Movements of Waste, in force since 1 Jan. 2006 (AS 2005 4199).

<sup>10</sup> SR 814.610

<sup>11</sup> SR 814.620

<sup>12</sup> Amended by Annex 4 No 45 of the Customs Ordinance of 1 Nov. 2006, in force since 1 May 2007 (AS 2007 1469).

<sup>13</sup> Amended by No I of the O of 7 Nov. 2012, in force since 1 Dec. 2012 (AS 2012 6161).

## Chapter 2 Use of Substances, Preparations and Articles

### Section 1 Restrictions, Prohibitions and Exemptions

#### Art. 3

<sup>1</sup> The restrictions and prohibitions on the use of specific substances, preparations and articles, together with exemptions, are regulated in the Annexes.

<sup>2</sup> Exemptions under the Annexes are only granted to persons who are domiciled or have a registered office in Switzerland.

### Section 2 Authorisations

#### Art. 4<sup>14</sup> Applications requiring authorisation

The following applications require an authorisation granted by the authorities mentioned below:

Application	Authority granting authorisation
a. Application, on a professional or commercial basis, of products intended to protect plants against rodents (rodenticides), if applied on more than one farm or by machine	Cantonal authority; with the agreement of the Federal Food Safety and Veterinary Office (FSVO), the Federal Office for Agriculture (FOAG) and the Federal Office for the Environment (FOEN) in the case of regional or supraregional applications
b. <sup>15</sup> Aerial spraying and spreading of plant protection products, biocidal products and fertilisers	Federal Office of Civil Aviation, with the agreement of the Federal Office of Public Health (FOPH), the FSVO, the FOAG, the State Secretariat for Economic Affairs (SECO) and the FOEN
c. Application of plant protection products and fertilisers in forests, unless covered by an authorisation under letter a or b	Cantonal authority

#### Art. 4a<sup>16</sup> Applications that do not require authorisation

The granting of authorisation in accordance with Article 4 letter b is not required for the application of organisms using an unmanned aircraft.

<sup>14</sup> Amended by No I 6 of the O of 4 Sept. 2013 (Reorganisation in the field of Food Safety and Veterinary Medicine), in force since 1 Jan. 2014 (AS 2013 3041).

<sup>15</sup> Amended by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS 2015 2367).

<sup>16</sup> Inserted by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS 2015 2367).

**Art. 5** Requirements for authorisation

<sup>1</sup> Authorisation shall be granted in accordance with Article 4 letter a or c if the planned application is not expected to endanger the environment. This authorisation is for a limited period and for a specific geographical area.<sup>17</sup>

<sup>1bis</sup> Authorisation granted in accordance with Article 4 letter b shall be limited in time and geographical scope and only granted if, in the case of the planned application:

- a. application from the ground is not feasible or application from the air is associated with advantages for the protection of human health or the environment;
- b. the aviation company uses aircraft and equipment with state-of-the-art technology for the protection of human health and the environment; and
- c. there is no reason to fear any risk to human health and the environment.<sup>18</sup>

<sup>2</sup> Authorisations shall only be granted to persons who are domiciled or have a registered office in Switzerland or in a member state of the European Union (EU) or the European Free Trade Association (EFTA).

**Art. 6<sup>19</sup>** Coordination

If a federal authority is responsible for the authorisation, it shall consult the relevant cantonal authority before making a decision, in particular in relation to whether the cantonal authority takes the view that the conditions for authorisation have been fulfilled and regarding the ancillary requirements to be stipulated in any authorisation that may be granted. The federal authority shall notify the cantonal authority of its decision.

**Section 3** Certificates**Art. 7** Use of substances and preparations requiring a certificate

<sup>1</sup> The following activities may only be carried out on a professional or commercial basis by natural persons with an appropriate certificate or with a qualification regarded as equivalent, or acting 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;

<sup>17</sup> Amended by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS **2015** 2367).

<sup>18</sup> Inserted by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS **2015** 2367).

<sup>19</sup> Amended by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS **2015** 2367).

b.<sup>20</sup> the handling of refrigerants during:

1. the manufacture, installation, maintenance or disposal of refrigeration, air conditioning or heat recovery appliances or systems,
2. the disposal of refrigerants.

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

<sup>3</sup> The competent Federal Department shall specify detailed requirements for certificates. It may provide for exemptions to authorisation requirements and specify a time limit for certificates for pest control with fumigants. In its regulations it shall take account of the protection goals.

#### **Art. 8** Proof of specialist knowledge

<sup>1</sup> A certificate shall be issued to a person who, in an examination, has demonstrated the knowledge required for the activity concerned with regard to:

- a. fundamentals of ecology and toxicology;
- b. legislation on the protection of the environment, health and workers;
- c. measures for the protection of the environment and health;
- d. environmental impacts and the appropriate use and disposal of substances, preparations and articles;
- e. appliances and their appropriate handling.

<sup>2</sup> Certificates from member states of the EU and EFTA are regarded as equivalent to Swiss certificates.

<sup>3</sup> The competent Federal Department or its designated agency shall decide, if requested by a college or vocational training establishment, whether a specific qualification must be regarded as equivalent to a certificate.

<sup>4</sup> The competent Federal Department shall determine which agency may recognise 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. 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.

<sup>20</sup> Amended by No I of the O of 7 Nov. 2012, in force since 1 Dec. 2012 (AS 2012 6161).

**Art. 10** Continuing education and training requirements

Any person who holds a certificate and carries out the relevant activities must keep abreast of best practices and undergo continuing education and training.

**Art. 11** Sanctions

<sup>1</sup> If the holder of a certificate wilfully infringes the relevant provisions of environmental, health and worker protection legislation, or repeatedly infringes such provisions through negligence, the cantonal authority may, by means of a ruling:

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

<sup>2</sup> The cantonal authority shall inform the competent Federal Office of such rulings.

**Art. 12** Responsibilities

<sup>1</sup> The Federal Department of the Environment, Transport, Energy and Communications (DETEC) is responsible for certificates as specified in Article 7 paragraph 1 letter a numbers 1 and 4, and letter b.

<sup>2</sup> The Federal Department of Home Affairs (FDHA) is responsible for certificates as specified in Article 7 paragraph 1 letter a numbers 2 and 3, and paragraph 2.

<sup>3</sup> The Department shall define:

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

<sup>4</sup> The Department or its designated agency shall specify the examining bodies that conduct examinations and issue certificates.

<sup>5</sup> DETEC shall provide opportunities for preparation for examinations within its sphere of responsibility.

**Chapter 3 Enforcement****Art. 13** Cantons

In the absence of regulations to the contrary, the cantons are responsible for monitoring compliance with the provisions of this Ordinance.

**Art. 14** Confederation

The Confederation is responsible for:

- a.<sup>21</sup> the tasks assigned to it in Articles 4, 7–12 (certificates) and 19;
- b. the granting of authorisations in accordance with the Annexes;

<sup>21</sup> Amended by No 1 of the O of 7 Nov. 2012, in force since 1 Dec. 2012 (AS **2012** 6161).

- c. enforcement of the provisions concerning imports and exports;
- d. enforcement with regard to substances, preparations and articles serving the interests of national defence.

**Art. 15** Delegation of tasks and powers to third parties

<sup>1</sup> The competent federal agencies may delegate to appropriate public bodies or private individuals some or all of the tasks and powers assigned to them by this Ordinance.

<sup>2</sup> Insofar as the enforcement of health protection is concerned, delegation is limited to Articles 7–12 (certificates) and the provision of information under Article 28 of the Chemicals Act.

**Art. 16** Special provisions concerning enforcement

<sup>1</sup> With regard to medical devices, enforcement is based on the Medical Devices Ordinance of 17 October 2001<sup>22</sup>.

<sup>2</sup> With regard to substances, preparations and articles relating to systems and activities serving the interests of national defence, Article 82 of the Chemicals Ordinance of 5 June 2015<sup>23</sup> (ChemO) applies.<sup>24</sup>

<sup>3</sup> With regard to fertilisers, the enforcement provisions of the Fertiliser Ordinance of 10 January 2001<sup>25</sup> also apply.

**Art. 17** Monitoring of imports and exports

<sup>1</sup> At the request of the FOPH, FOAG or FOEN, customs offices shall check whether substances, preparations and articles comply with the provisions of this Ordinance.<sup>26</sup>

<sup>2</sup> In cases of suspected infringement, they are authorised to detain goods at the border and call in the other enforcement authorities in accordance with this Ordinance. These authorities shall carry out further investigations and take the necessary measures.

**Art. 18** Inspections

<sup>1</sup> On a spot-check basis or at the request of the FOPH, FOAG, FOEN or SECO, the cantonal enforcement authorities shall inspect substances, preparations and articles placed on the market at the premises of manufacturers, traders and professional or commercial users. They shall check whether the substances, preparations and arti-

<sup>22</sup> SR 812.213

<sup>23</sup> SR 813.11

<sup>24</sup> Amended by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS 2015 2367).

<sup>25</sup> SR 916.171

<sup>26</sup> Amended by Annex 4 No 45 of the Customs Ordinance of 1 Nov. 2006, in force since 1 May 2007 (AS 2007 1469).

cles comply with the provisions of the Annexes, in particular with regard to composition, labelling and information for purchasers.<sup>27</sup>

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

<sup>3</sup> If the substances, preparations or articles inspected or the use thereof give cause for complaint, the inspection authority shall inform the authorities responsible for rulings under Article 19. If the latter are cantonal authorities, it shall additionally inform the FOPH, FOEN and SECO and also, in cases of complaints concerning plant protection products, the FSVO and the FOAG, and in cases of complaints concerning fertilisers, the FOAG.<sup>28</sup>

#### **Art. 19** Rulings arising from inspections

If an inspection reveals that provisions of this Ordinance have been violated, the federal authority or the authority of the canton in which the manufacturer, trader or user is domiciled or has a registered office shall, by means of a ruling, order the necessary measures.

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

<sup>1</sup> The cantons shall ensure that specialist advice is offered on the use of fertilisers and plant protection products, and that funding is available for these services.

<sup>2</sup> They may require persons who use fertilisers or plant protection products on a professional or commercial basis in polluted areas:

- a. to avail themselves of the specialist advice offered for this purpose;
- b. to make available the operational data required for such advice.

#### **Art. 21**<sup>29</sup> Data confidentiality and data exchange

Data confidentiality and the exchange of data among enforcement authorities and with other countries are governed by Articles 73–76 of the ChemO<sup>30</sup>.

#### **Art. 22** Fees

The obligation to pay fees and the calculation of fees for administrative acts performed by the federal enforcement authorities in accordance with this Ordinance are based on the Chemicals Fees Ordinance of 18 May 2005<sup>31</sup>.

<sup>27</sup> Amended by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS **2015** 2367).

<sup>28</sup> Amended by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS **2015** 2367).

<sup>29</sup> Amended by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS **2015** 2367).

<sup>30</sup> SR **813.11**

<sup>31</sup> SR **813.153.1**

## Chapter 4 Final Provisions

### Art. 23 Transitional provisions

<sup>1</sup> The transitional provisions on certificates in accordance with Articles 7–12 shall be enacted by the competent Federal Department.

<sup>2</sup> Exemptions granted under the Substances Ordinance of 9 June 1986<sup>32</sup> remain valid for the period originally specified.

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

### Art. 24 Commencement

This Ordinance comes into force on 1 August 2005.

<sup>32</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 Persistent organic pollutants
- 1.2 Halogenated organic substances
- 1.3 Chlorinated aliphatic hydrocarbons
- 1.4 Substances that deplete the ozone layer
- 1.5 Substances stable in the atmosphere
- 1.6 Asbestos
- 1.7 Mercury
- 1.8 Octylphenol, nonylphenol and their ethoxylates
- 1.9 Flame retardants
- 1.10 Substances classified as carcinogenic, mutagenic or toxic to reproduction
- 1.11 Dangerous liquid substances
- 1.12 Benzene and related compounds
- 1.13 Nitroaromatics, aromatic amines and azo dyes
- 1.14 Organotin compounds
- 1.15 Tars
- 1.16 Perfluorooctane sulfonates
- 1.17 Substances listed in Annex XIV to Regulation (EC) No 1907/2006

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

- 2.1 Laundry detergents
- 2.2 Cleaning and deodorising products
- 2.3 Solvents
- 2.4 Biocidal products
- 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<sup>34</sup>
- 2.13 Thermal fuel additives
- 2.14 Capacitors and transformers
- 2.15 Batteries
- 2.16 Special provisions relating to metals
- 2.17 Wood-based materials
- 2.18 Electrical and electronic equipment

<sup>33</sup> Revised by No I of the O of 1 July 2015, in force since 1 Sept. 2015 (AS **2015** 2367).

<sup>34</sup> Term in accordance with No I 2 of the O of 10 Dec. 2010, in force since 1 Feb. 2011 (AS **2011** 113). This amendment has been applied throughout the text.

## Provisions relating to specific substances

Annex 1.135  
(Art. 3)

### Persistent organic pollutants

#### 1 Prohibitions

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

- a. persistent organic substances as specified in Number 3;
- b. substances and preparations containing persistent organic substances as specified in Number 3 which are not merely unavoidable impurities.

<sup>2</sup> New articles may not be placed on the market if they or their components contain persistent organic substances as specified in Number 3 which are not merely unavoidable impurities.

<sup>3</sup> For perfluorooctane sulfonic acid and its derivatives (PFOS), Annex 1.16 applies.

<sup>4</sup> For electrical and electronic equipment that contains hexabromobiphenyl or brominated diphenyl ethers, Annex 2.18 applies.

#### 2 Exemptions

<sup>1</sup> The prohibitions specified in Number 1 paragraph 1 do not apply to:

- a. manufacture, placing on the market and use for analysis and research purposes;
- b. lubricating oils and greases manufactured from waste oils if the content of persistent organic substances does not exceed 0.0001 per cent by mass (1mg/kg).

<sup>1bis</sup> The prohibitions specified in Number 1 paragraph 1 letter b do not apply to substances and preparations, provided that:

- a. their content of alkane C<sub>10</sub>–C<sub>13</sub>, chloro- does not exceed 1 per cent by mass;
- b. their content brominated diphenyl ethers as specified in Number 3 letter d does not exceed 0.001 per cent by mass (10 mg/kg).

<sup>2</sup> The prohibitions specified in Number 1 paragraph 1 letter b and paragraph 2 do not apply to articles and their components, provided that:

- a. the content of alkane C<sub>10</sub>–C<sub>13</sub>, chloro does not exceed 0.15 per cent by mass;

<sup>35</sup> Amended by No II para. 1 of the O of 1 July 2015 (AS 2015 2367). Revised by No I of the O of 25 Oct. 2017, in force since 1 July 2018 (AS 2017 5963).

- b. the content of brominated diphenyl ethers as specified in Number 3 letter d does not exceed 0.001 per cent by mass (10mg/kg).

<sup>3</sup> In addition, the prohibitions specified in Number 1 paragraph 1 letter b and paragraph 2 do not apply to preparations and articles manufactured partially or fully from recycled materials or materials from waste prepared for re-use, provided that the content of brominated diphenyl ethers as specified in Number 3 letter d does not exceed 0.1 per cent by mass.

### 3 List of prohibited persistent organic pollutants

- a. *Halogenated aliphates*
- Hexachlorobutadine (CAS no 87-68-3);
  - Alkane C10-C13, chloro (CAS no 85535-84-8);
  - Perfluorooctane sulfonic acid and its derivatives (PFOS);
  - Hexachlorocyclohexane (HCH, all isomers);
  - Hexabromocyclododecane (HBCDD, isomers of CAS no 25637-99-4, CAS no 3194-55-6, CAS no 134237-50-6, CAS no 134237-51-7 and CAS no 134237-52-8);
  - Aldrin (CAS no 309-00-2);
  - Chlordane (CAS no 57-74-9);
  - Chlordecone (Kepone, CAS no 143-50-0);
  - Dieldrin (CAS no 60-57-1);
  - Endosulfan (CAS no 115-29-7) and its isomers (CAS no 959-98-8 and CAS no 33213-65-9);
  - Endrin (CAS no 72-20-8);
  - Heptachlor (CAS no 76-44-8) and Heptachlor epoxide (CAS no 1024-57-3);
  - Mirex (CAS no 2385-85-5);
  - Toxaphene (CAS no 8001-35-2).
- b. *Halogenated benzenes*
- Pentachlorobenzene (CAS no 608-93-5);
  - Hexachlorobenzene (CAS no 118-74-1).
- c. *Halogenated biphenyls and naphthalenes*
- Polychlorinated biphenyls (CAS no 1336-36-3 and others);
  - Hexabrombiphenyl (CAS no 36355-01-8);
  - Polychlorinated naphthalenes with the formula  $C_{10}H_nCl_{8-n}$  where  $0 \leq n \leq 7$ .
- d. *Brominated diphenyl ethers*
- Tetrabromodiphenyl ether with the formula  $C_{12}H_6Br_4O$ ;
  - Pentabromodiphenyl ether with the formula  $C_{12}H_5Br_5O$ ;

- Hexabromodiphenyl ether with the formula  $C_{12}H_4Br_6O$ ;
  - Heptabromodiphenyl ether with the formula  $C_{12}H_3Br_7O$ .
- e. *Dichlorodiphenyltrichloroethane (DDT)*.

#### 4 Transitional provisions

<sup>1</sup> The prohibitions specified in Number 1 paragraph 1 letter b and paragraph 2 come into force on 1 March 2016 for:

- a. the placing on the market and use of expandable polystyrene that contains HBCDD for the manufacture of insulation panels for use in and on buildings;
- b. the first placing on the market of insulation panels made of expanded polystyrene that contains HBCDD for use in and on buildings;
- c. the first placing on the market of installation panels made of extruded polystyrene that contains HBCDD for use in and on buildings.

<sup>2</sup> The prohibition specified in Number 1 paragraph 2 does not apply to insulation panels made of expanded or extruded polystyrene for use in and on buildings if the insulation panels were manufactured with sections containing HBCDD that arise in the processing of new insulation panels in and on buildings.

<sup>3</sup> On the receipt of a justified request, the Federal Office for the Environment (FOEN) may grant temporary exemptions from the prohibitions specified in paragraph 1 letters a and b if the applicant can demonstrate that a substitute without HBCDD cannot actually be obtained for the preparations or objects. The time limit may last until 1 March 2018 at the latest.

*Annex 1.2*<sup>36</sup>  
(Art. 3)

## Halogenated organic substances

### 1 Prohibitions

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

- a. halogenated organic substances as specified in Number 3;
- b. substances and preparations containing halogenated organic substances as specified in Number 3 which are not merely unavoidable impurities.

<sup>2</sup> It is prohibited to place new textiles and new leather goods on the market if they or their components contain substances as specified in Number 3 letters f and g which are not merely unavoidable impurities.

<sup>3</sup> It is prohibited to place on the market new articles if they or their components contain substances as specified in Number 3 Letters f and g which are not merely unavoidable impurities.

<sup>4</sup> For chlorinated biphenyls and naphthalenes and hexabromobiphenyl, Annex 1.1 applies.

<sup>5</sup> For electrical and electronic equipment that contain octabromodiphenyl ether, Annex 2.18 applies.

### 2 Exemptions

<sup>1</sup> The prohibitions specified in Number 1 paragraph 1 do not apply to:

- a. manufacture, placing on the market and use for analysis and research purposes;
- b. mono- and di-halogenated biphenyls, terphenyls and naphthalenes and to preparations that contain such substances if they are used exclusively as intermediate products in synthesis and are merely contained in finished products as unavoidable impurities;
- c. lubricating oils and greases manufactured from waste oils if their content of halogenated biphenyls does not exceed 0.0001 per cent (1mg/kg) by mass;
- d. the manufacture of 1,2,4 trichlorobenzene and substances and preparations containing 1,2,4 trichlorobenzene;

<sup>36</sup> Amended by No II para. 1 of the O of 1 July 2015, in force since 1 Sept. 2015 (AS 2015 2367).

- e. the placing on the market and use of 1,2,4 trichlorobenzene and of substances and preparations containing 1,2,4 trichlorobenzene as:
  1. intermediate products in synthesis, 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 use of substances and preparations with a maximum concentration of 0.1 per cent 1,2,4 trichlorobenzene by mass.

<sup>2</sup> The prohibition specified in Number 1 paragraph 2 does not apply to the import of new textiles and new leather goods which are only finished or repackaged in Switzerland and then re-exported in their entirety.

<sup>3</sup> In relation to the substance specified in Number 3 letter g, the prohibition specified in Number 1 paragraph 3 does not apply to the placing on the market of articles if their content of octabromodiphenyl ether does not exceed 0.1 per cent by mass.

### 3 List of prohibited halogenated organic substances

- a. *Aliphatic polycyclic systems*
  - isodrin (CAS no 465-73-6);
  - kelevan (CAS no 4234-79-1);
  - strobane (CAS no 8001-50-1);
  - telodrin (CAS no 297-78-9).
- b. *DDT-like compounds*
  - dichlorodiphenyldichloroethylene (DDE);
  - dichlorodiphenyldichloroethane (DDD);
  - methoxychlor (CAS no 72-43-5);
  - perthane (CAS no 72-56-0);
  - dicofol (CAS no 115-32-2).
- c. *Quintozene* (CAS no 82-68-8).
- d. *Polychlorinated phenols and their derivatives*
  - pentachlorophenol (PCP, CAS no 87-86-5) and its salts, and pentachlorophenoxy compounds;
  - tetrachlorophenols (TeCP) and their salts, and tetrachlorophenoxy compounds.
- e. *Halogenated biphenyls, terphenyls and naphthalenes*
  - halogenated biphenyls with the formula  $C_{12}H_nX_{10-n}$ ;  
X = halogen,  $0 \leq n \leq 9$ ;
  - halogenated terphenyls with the formula  $C_{18}H_nX_{14-n}$ ;  
X = halogen,  $0 \leq n \leq 13$ ;
  - halogenated naphthalenes with the formula  $C_{10}H_nX_{8-n}$ ;  
X = halogen,  $0 \leq n \leq 7$ .

- f. *Halogenated diarylalkanes*
  - monomethyl-tetrachloro-diphenyl methane (CAS no 76253-60-6);
  - monomethyl-dichloro-diphenyl methane;
  - monomethyl-dibromo-diphenyl methane (CAS no 99688-47-8).
- g. *Octabromodiphenyl ether with the molecular formula C<sub>12</sub>H<sub>2</sub>Br<sub>8</sub>O*.
- h. *Trichlorophenoxy fatty acids and their derivatives*
  - 2,4,5-trichlorophenoxyacetic acid (CAS no 93-76-5) and its salts and 2,4,5-trichlorophenoxyacetyl compounds;
  - 2-(2,4,5-Trichlorophenoxy) propionic acid (CAS no 93-72-1) and its salts, and 2-(2,4,5-trichlorophenoxy) propionyl compounds.
- i. *1,2,4-trichlorobenzene (CAS no 120-82-1)*.

## Chlorinated aliphatic hydrocarbons

### 1 Prohibitions

<sup>1</sup> It is prohibited to place on the market or 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 or use substances and preparations containing 0.1% or more, by mass, of the substances specified in 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

<sup>1</sup> The prohibitions specified in Number 1 paragraphs 1 and 2 do not apply to:

- a. medicinal products;
- b. cosmetic products which, based on Article 54 paragraphs 2–5 and 7 of the Foodstuffs and Utility Articles Ordinance of 16 December 2016<sup>38</sup>, may contain substances specified in Number 1 paragraph 1;
- c. substances and preparations intended for use in closed systems in industrial processes;
- d. substances and preparations intended for analysis and research.

<sup>2</sup> On receipt of a justified request, the FOEN may, with the agreement of the SECO and the FOPH, grant temporary exemptions from the prohibitions specified in Number 1 paragraphs 1 and 2 for the use of chloroform if:

- a. in the current state of the art, no substitute for chloroform is available for the use in question; and
- b. the quantity of chloroform used is no greater than is required for the intended purpose and does not exceed 20 litres per year.

<sup>37</sup> Revised by Annex 2 No II 2 of the Foodstuffs and Utility Articles Ordinance of 23 Nov. 2005 (AS 2005 5451), No I 6 of the O of 10 Dec. 2010 (AS 2011 113), and No I of the O of 25 Oct. 2017, in force since 1 Jan. 2018 (AS 2017 5963).

<sup>38</sup> SR 817.02

### **3 Special labelling**

<sup>1</sup> The packaging of substances and preparations specified in Number 2 letter c must be marked as follows: «For industrial use only».

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

## Substances that deplete the ozone layer

### 1 Definitions

<sup>1</sup> Substances that deplete the ozone layer are:

- a. all fully halogenated chlorofluorocarbons with up to 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 hydrochlorofluorocarbons with up to three carbon atoms (HCFCs), such as:
  1. chlorodifluoromethane (HCFC 22),
  2. dichlorotrifluoroethane (HCFC 123),
  3. dichlorofluoroethane (HCFC 141),
  4. chlorodifluoroethane (HCFC 142);
- c. all fully halogenated bromofluorocarbons with up to three carbon atoms (halons), such as:
  1. bromochlorodifluoromethane (halon 1211),
  2. bromotrifluoromethane (halon 1301),
  3. dibromotetrafluoroethane (halon 2402);
- d. all partially halogenated hydrobromofluorocarbons with up to three carbon atoms (HBFCs);
- 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 specified in paragraph 1 are deemed equivalent to substances that deplete the ozone layer if they are found in containers used solely for the transport or storage of these preparations.

<sup>39</sup> Revised by Annex 4 No 45 of the Customs Ordinance of 1 November 2006, in force since 1 May 2007 (AS **2007** 1469). The correction of 27 Feb. 2018 relates to the Italian text only (AS **2018** 939).

<sup>3</sup> Regenerated substances that deplete the ozone layer are substances produced by re-processing of used ozone depleting substances without chemical modification.

<sup>4</sup> Import includes storage in a customs bonded warehouse, a bulk goods warehouse or a duty-free warehouse.

<sup>5</sup> Export includes removal from a customs bonded warehouse, a bulk goods warehouse or a duty-free warehouse to another country.

## **2 Manufacture**

### **2.1 Prohibition**

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

### **2.2 Exemption**

The prohibition specified in Number 2.1 does not apply to the manufacture of regenerated substances that deplete the ozone layer.

## **3 Import**

### **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 licence as specified in Number 3.1.3:

- a. for the uses specified in Number 6.2; and
- b. from states that comply with the provisions of the Montreal Protocol of 16 September 1987<sup>40</sup> on Substances that Deplete the Ozone Layer and the Amendments to the Protocol of 29 June 1990<sup>41</sup>, 25 November 1992<sup>42</sup>, 17 September 1997<sup>43</sup> and 3 December 1999<sup>44</sup> (Montreal Protocol), as approved by Switzerland.

<sup>2</sup> In addition, for substances specified in Number 1 paragraph 1 letters a and c–h, the general import licence shall only be issued for the quantities and uses approved by the Parties to the Montreal Protocol.

<sup>40</sup> SR **0.814.021**

<sup>41</sup> SR **0.814.021.1**

<sup>42</sup> SR **0.814.021.2**

<sup>43</sup> SR **0.814.021.3**

<sup>44</sup> SR **0.814.021.4**

### 3.1.3 General import licence

#### 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 requires authorisation from the FOEN.

<sup>2</sup> Authorisation is granted in the form of a general import licence issued for specific substances for a maximum period of 18 months; the licence expires at the end of a calendar year and is numbered.

<sup>3</sup> A general import licence entitles the 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 required to submit a declaration under customs legislation must:

- a. at the time of import, state the general import licence number on the customs declaration; or
- b. at the time of storage in a customs bonded warehouse, a bulk goods warehouse or a duty-free warehouse, present a copy of the general import licence to the customs office.

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

<sup>7</sup> The FOEN shall revoke the general import licence if the conditions are violated by the holder or are no longer fulfilled.

<sup>8</sup> It shall inform the cantons of the granting and revocation of general import licences.

#### 3.1.3.2 Application

<sup>1</sup> Any person wishing to obtain a general import licence must submit an application to the FOEN.

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

- a. the applicant's name and address;
- b. the names and addresses of the foreign exporters;
- c. for each substance to be imported, the following information:
  1. the chemical name according to an internationally recognised nomenclature,
  2. the customs tariff number according to the Annexes of the Federal Act of 9 October 1986<sup>45</sup> on Customs Tariffs,

<sup>45</sup> SR 632.10

3. the intended quantity, expressed in kilograms,
4. the intended uses.

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

<sup>4</sup> Applications concerning substances specified in Number 1 paragraph 1 letters a and c–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 shall decide within two months of receiving the decision of the Conference of the 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> With regard to complete applications concerning the other substances that deplete the ozone layer, the FOEN shall decide 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 listed in an Annex to the Montreal Protocol.

### **3.2.2 Exemption**

The prohibition specified in Number 3.2.1 does not apply to imports of preparations and articles which, in accordance with the provisions of Annexes 2.3, 2.9, 2.10, 2.11 and 2.12, may be imported, provided that they are imported from countries which comply with 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 as specified in Number 1 paragraph 1 letters a, c–f and h.

### **4.2 Exemption**

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

## 4.3 Export licence

### 4.3.1 Principles

<sup>1</sup> Any person wishing to export substances that deplete the ozone layer with a gross mass of more than 20kg requires authorisation from the FOEN.

<sup>2</sup> Authorisation is granted in the form of an export licence issued for specific substances for a period limited to 12 months; the licence is numbered.

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

<sup>4</sup> Exported substances must be accompanied by an indication of origin.

<sup>5</sup> At the time of declaration, the person required to submit a declaration under customs legislation must present the export licence to the customs office.

<sup>6</sup> At the request of the FOEN, appropriate documents must be furnished at any time to prove that the export has been lawfully made. The obligation to provide proof ceases five years after customs clearance.

<sup>7</sup> The FOEN shall revoke the export licence if the conditions are no longer fulfilled.

<sup>8</sup> It shall inform the cantons of the granting and revocation of export licences.

### 4.3.2 Application

<sup>1</sup> Any person wishing to obtain an export licence must submit an application to the FOEN.

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

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

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

<sup>4</sup> It shall make a decision on the complete application within two months.

## 5 Reporting requirements for importers and exporters

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

<sup>2</sup> The reports must be classified by substance and intended use.

<sup>3</sup> The reporting requirements specified in paragraphs 1 and 2 do not apply to storage in, or removal to another country from, a customs bonded warehouse, a bulk goods warehouse or a duty-free warehouse.

## 6 Use

### 6.1 Prohibition

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

### 6.2 Exemptions

<sup>1</sup> The prohibition specified in Number 6.1 does not apply to the use of substances that deplete the ozone layer for the manufacture of preparations or articles which may be placed on the market or imported for private purposes in accordance with the provisions of Annexes 2.3, 2.9, 2.10, 2.11 and 2.12.

<sup>2</sup> If, in the current state of the art, no substitute is available for the substances that deplete the ozone layer or for the preparations and articles manufactured using these substances, the prohibition specified in Number 6.1 does not apply to the use of substances that deplete the ozone layer:

- a. as intermediate products for complete subsequent chemical conversion;
- b. for the laboratory or analytical purposes permitted in accordance with Decision X/19 of the Parties to the Montreal Protocol<sup>46</sup>.

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

- a. in the current state of the art, no substitute is available for the substances that deplete the ozone layer or for the preparations and articles manufactured using these substances; and
- b. the quantity of substances that deplete the ozone layer being used is no greater than is required for the intended purpose.

<sup>46</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).

**7 Transitional provision**

Preparations and articles which were manufactured with substances that deplete the ozone layer and are listed in an Annex to the Montreal Protocol (No. 3.2.1 let. b) may continue to be imported for one year after the relevant Annex to the Montreal Protocol comes into force.

*Annex 1.5<sup>47</sup>*  
(Art. 3)

## Substances stable in the atmosphere

### 1 Definition

<sup>1</sup> Substances stable in the atmosphere are:

- a. fluorinated organic compounds, with a vapour pressure of at least 0.1 mbar at 20°C or whose boiling point does not exceed 240°C at 1013.25 mbar, and which have a mean atmospheric lifetime 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 shall publish a list of the most widely used substances specified in paragraph 1.

<sup>3</sup> Preparations containing substances specified in paragraph 1 are deemed equivalent to substances stable in the atmosphere if they are found in containers used solely for the transport or storage of these preparations.

<sup>4</sup> For substances stable in the atmosphere which are substances that deplete the ozone layer, Annex 1.4 applies.

### 2 Import

#### 2.1 Prohibition

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

#### 2.2 Exemptions

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

- a. for whose manufacture or maintenance substances stable in the atmosphere may be used in accordance with Number 4.2;
- b. which may be imported in accordance with the provisions of Annexes 2.3, 2.9, 2.10, 2.11 and 2.12.

<sup>47</sup> Revised by No I 6 of the O of 10 Dec. 2010 (AS 2011 113) and No II 3 of the O of 7 Nov. 2012, in force since 1 Jan. 2017 (AS 2012 6161).

### **3 Reporting requirements for importers and exporters**

#### **3.1 Principle**

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

<sup>2</sup> The reports must be classified by substance and intended use.

#### **3.2 Exemption**

Importers and exporters who are party to a sectoral agreement, as defined in Art. 41a of the Environmental Protection Act, are exempt from the reporting requirements specified in Number 3.1 if this agreement ensures that the FOEN will be duly informed.

### **4 Use**

#### **4.1 Prohibition**

It is prohibited to use substances stable in the atmosphere.

#### **4.2 Exemptions**

<sup>1</sup> Without prejudice to paragraph 3, the prohibition specified in Number 4.1 does not apply to the use of substances stable in the atmosphere:

- a. for the manufacture of preparations or articles which may be placed on the market or imported for private purposes in accordance with the provisions of Annexes 2.3, 2.9, 2.10, 2.11 and 2.12;
- b. 5% of the quantity of substances used;
- c. as an intermediate in a process leading to complete chemical conversion, provided that emissions do not exceed 0.5% of the quantity of substances used;
- d. as heat transfer or insulation fluids in welding machines and in testing and calibration baths;
- e. for research and analysis purposes.

<sup>2</sup> In addition, without prejudice to paragraph 3, the prohibition specified in Number 4.1 does not apply to the use of sulphur hexafluoride:

- a. for the manufacture of the high-voltage component of particle accelerators whose gas compartment is continuously monitored or hermetically sealed, in particular X-ray equipment, electron microscopes and industrial particle accelerators used in the production of plastics;
- b. for the manufacture of mini-relays;

- c. for the manufacture of electrical distribution systems with voltages according to the International Electrotechnical Commission (IEC) above 1 kV, whose gas compartment is continuously monitored or hermetically sealed in accordance with IEC 60694 (2002-01)<sup>48</sup>;
- d. ...
- e. for the maintenance and operation of equipment and systems allowed to contain sulphur hexafluoride in accordance with letters a to c.

<sup>3</sup> The exemptions specified in paragraphs 1 and 2 apply provided that:

- a. in the current state of the art, no substitute is available either for the substances stable in the atmosphere or for the preparations and articles manufactured with or containing such substances;
- b. the quantity and the global warming potential of the substances stable in the atmosphere being used are no greater than is required for the intended purpose in the current state of the art;
- c. emissions of substances stable in the atmosphere are kept as low as possible throughout the life cycle of the intended use; and
- d. an operational system ensures the environmentally sound disposal of wastes from substances stable in the atmosphere;

<sup>4</sup> ...

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

- a. in the current state of the art, no substitute is available either for the substances stable in the atmosphere or for the preparations and articles manufactured with these substances;
- b. the quantity and the global warming potential of the substances stable in the atmosphere being used is no greater than is required for the intended purpose in the current state of the art; and
- c. emissions of substances stable in the atmosphere are kept as low as possible throughout the life cycle of the intended use.

### 4.3 Reporting requirements relating to sulphur hexafluoride

#### 4.3.1 Principle

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

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

- a. the type and location of the appliance or system;
- b. the quantity of sulphur hexafluoride contained therein;

<sup>48</sup> This technical standard can be purchased from the Swiss information centre for technical rules (switec), Bürglistrasse 29, CH-8400 Winterthur; [www.snv.ch](http://www.snv.ch).

- c. the date of commissioning or decommissioning;
- d. in the case of decommissioning: the recipient of the sulphur hexafluoride.

### 4.3.2 Exemptions

<sup>1</sup> Parties to a sectoral agreement, as defined in Art. 41a of the Environmental Protection Act, on sulphur hexafluoride are exempt from the reporting requirements specified in Number 4.3.1 if this agreement ensures that the FOEN will be duly informed.

<sup>2</sup> Also exempt from the reporting requirements specified in Number 4.3.1 are the owners of appliances or systems containing more than 1kg sulphur hexafluoride in hermetically sealed pressure systems in accordance with IEC 60694 (2002-01)<sup>49</sup> if one party to a sectoral agreement assumes responsibility for reporting.

## 5 Special labelling

<sup>1</sup> The manufacturer may only place on the market containers with substances stable in the atmosphere which are listed in Annex A to the Kyoto Protocol to the United Nations Framework Convention on Climate Change of 11 December 1997<sup>50</sup> (Kyoto Protocol), or switchgear containing sulphur hexafluoride or preparations with sulphur hexafluoride, if they are labelled with the following information:

- a. the text: «Contains fluorinated greenhouse gases covered by the Kyoto Protocol»;
- b. the abbreviated chemical names for the substances stable in the atmosphere contained or designed to be contained in the containers or systems, using the industry nomenclature accepted for the area concerned;
- c. the quantity of the substances stable in the atmosphere, expressed in kilograms.

<sup>2</sup> The manufacturer of appliances or of systems other than those referred to in paragraph 1 which contain more than 1kg sulphur hexafluoride must indicate the presence of this substance on the appliances or systems and indicate the quantity of the substance contained in the appliances or systems.

<sup>3</sup> The labelling specified in paragraphs 1 and 2 must appear in at least two official languages and be visible, clearly legible and indelible.

<sup>49</sup> This technical standard can be purchased from switec.

<sup>50</sup> SR **0.814.011**

## Asbestos

### 1 Definitions

<sup>1</sup> *Asbestos* refers to the natural fibrous silicate minerals of:

- 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> *Asbestos-containing preparations* are preparations in which asbestos is present not merely as an unavoidable impurity.

<sup>3</sup> *Asbestos-containing articles* are articles in which asbestos is present not merely as an unavoidable impurity, and appliances and equipment such as vehicles, machines or instruments with asbestos-containing components.

### 2 Prohibitions

It is prohibited:

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

### 3 Exemptions

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

- a. in the current state of the art, no substitute for asbestos is available and the quantity of asbestos used is no greater than is required for the intended purpose; or
- b. on account of particular design characteristics, only asbestos-containing spare parts can be used.

<sup>2</sup> On receipt of a justified request and with the agreement of the FOPH, the FOEN may grant exemptions to the prohibition specified in Number 2 letter b for appliances and equipment with asbestos-containing components if they:

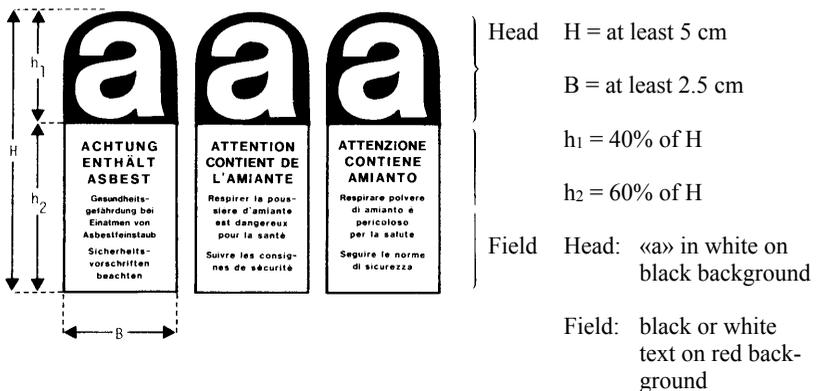
- a. were in operation before 1 March 1990; and
- b. only contain small quantities of asbestos, solely in a bound form.

<sup>3</sup> On receipt of a justified request and with the agreement of the FOPH, the FOEN may grant exemptions to the prohibition specified in Number 2 letter c for appliances and equipment with asbestos-containing components if they only contain small quantities of asbestos, solely in a bound form.

#### 4 Special labelling

<sup>1</sup> The manufacturer may only place asbestos on the market if the packaging is marked with:

- a. the name of the manufacturer;
- b. a warning about the dangers of asbestos to human health and the environment and reference to protective measures; it must appear in at least two official languages and comply with the following specifications:



<sup>2</sup> Asbestos-containing preparations and articles must also be labelled with the markings specified in paragraph 1. If the markings are printed directly on the preparation or article, a single colour contrasting clearly with the background is sufficient for the head and field. In this case, the text fields may also be combined under a single head, arranged either horizontally or vertically.

<sup>3</sup> In the case of preparations or articles with asbestos-containing components, these components must be clearly labelled with the markings specified in paragraph 1.

<sup>4</sup> If, for important reasons, a preparation or article cannot be marked in accordance with the provisions specified in paragraphs 1–3, the FOEN may, on receipt of a justified request and with the agreement of the FOPH, grant a temporary exemption. It shall require the necessary information to be conveyed to the purchaser in an equivalent form.

## **5 Instructions for use**

If asbestos-containing preparations or articles have the potential to release dust during normal use, the manufacturer may only supply them if the instructions for use include, in at least two official languages:

- a. a warning that inappropriate use poses a risk of lung disease and an increased risk of cancer; and
- b. recommendations on the necessary protective measures.

## **6 Transitional provisions**

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

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

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

## Mercury

### 1 Placing on the market

#### 1.1 Prohibitions

<sup>1</sup> The placing on the market of the following mercury compounds and of preparations that contain these mercury compounds is prohibited if their mercury content is 0.01 per cent or more by mass:

- a. phenylmercury acetate (CAS no 62-38-4);
- b. phenylmercury propionate (CAS no 103-27-5);
- c. phenylmercury 2-ethylhexanoate (CAS no 13302-00-6);
- d. phenylmercury octanoate (CAS no 13864-38-5);
- e. phenylmercury neodecanoate (CAS no 26545-49-3);
- f. mercury compounds other than those specified in letters a–e, provided that they are intended for the manufacture of polyurethanes.

<sup>2</sup> It is prohibited to place on the market:

- a. clinical thermometers and other measuring instruments that contain mercury (CAS no 7439-97-6) and are intended for the general public;
- b. the following measuring instruments that contain mercury (CAS no 7439-97-6) and are intended for application on a professional or commercial basis:
  1. barometers,
  2. hygrometers,
  3. manometers,
  4. sphygmomanometers,
  5. strain gauges for use in plethysmographs,
  6. tensiometers,
  7. thermometers and other non-electrical thermometric applications,
  8. pycnometers,
  9. instruments for the determination of the softening point;
- c.<sup>52</sup> ...
- d. the following product types that contain mercury compounds:
  1. plant protection products,

<sup>51</sup> Amended by No I of the O of 25 Oct. 2017, in force since 1 Jan. 2018, Nos 2.2 and 4.2 in force since 1 July 2018 (AS 2017 5963).

<sup>52</sup> Comes into force on 1 Jan. 2021.

2. biocidal products as specified in Article 1a of the Biocidal Products Ordinance of 18 May 2005<sup>53</sup> (OBP),
3. paints and varnishes,
4. cosmetic products, provided that they are not based on Article 54 paragraphs 4 and 7 of the Foodstuffs and Utility Articles Ordinance of 16 December 2016<sup>54</sup> may contain mercury compounds as preservatives in ophthalmic products,
5. topical antiseptics;
- e. preparations and articles that contain mercury (CAS no 7439-97-6) or mercury compounds, for a use unknown before 1 January 2018.

<sup>3</sup> In addition, the placing on the market of articles is prohibited if the articles or their components contain mercury compounds specified in paragraph 1 and the mercury content in the articles or their constituents is 0.01 per cent or more by mass.

<sup>4</sup> For the placing on the market of batteries, packaging and packaging components, vehicles and vehicle materials and components, wood-based materials and electrical and electronic equipment and their spare parts, Annexes 2.15–2.18 apply.

## 1.2 Exemptions

<sup>1</sup> The prohibitions of the placing on the market of mercury compounds specified in Number 1.1 paragraph 1 and of articles specified in Number 1.1 paragraph 3 do not apply for analysis and research purposes.

<sup>2</sup> The prohibition on the placing on the market of measuring instruments specified in Number 1.1 paragraph 2 letter a does not apply to instruments that were more than 50 years old on 1 September 2015 and are considered to be antiques or cultural goods.

<sup>3</sup> The prohibitions of the placing on the market of measuring instruments specified in Number 1.1 paragraph 2 letter b do not apply to:

- a. sphygmomanometers for use as a reference standard for the validation of mercury-free sphygmomanometers;
- b. thermometers which are exclusively intended to carry out tests based on standards that prescribe the use of mercury thermometers;
- c. triple point cells which are used for the calibration of platinum resistance thermometers;
- d. instruments which were more than 50 years old on 1 September 2015 and are considered to be antiques or cultural goods;
- e. instruments to be exhibited in public exhibitions for cultural and historical purposes.

<sup>53</sup> SR 813.12

<sup>54</sup> SR 817.02

<sup>4</sup> The prohibition on the placing on the market specified in Number 1.1 paragraph 2 letter c does not apply to switches and relays that:

- a. are intended for appliances, which, in accordance with Annex 2.18 Number 3 paragraph 1 letters a and c, may contain mercury-containing switches and relays;
- b. are intended as spare parts for appliances specified in Annex 2.18 Number 1 paragraph 1, if, under the current state of the art, no mercury-free alternative is available.

<sup>5</sup> The prohibition on the placing on the market of biocidal products specified in Number 1.1 paragraph 2 letter d Number 2 does not apply for research and development purposes.

<sup>6</sup> The prohibition on the placing on the market specified in Number 1.1 paragraph 2 letter e does not apply to:

- a. mercury-containing preparations and articles that are necessary for the protection of the essential interests of the security of Switzerland, including arms, munitions and war material specifically intended for military purposes;
- b. mercury-containing preparations and articles for use in outer space;
- c. mercury-containing preparations for use as auxiliary substances in industrial manufacturing processes, the use of which has been authorised as specified in Number 3.2.1 paragraph 1.

## **1.3 Exemptions with Authorisation**

### **1.3.1 Principle**

On receipt of a justified request, the FOEN may, with the agreement of the Federal Office of Public Health (FOPH), grant temporary exemptions from the prohibition specified in Number 1.1 paragraph 2 letter e.

### **1.3.2 Authorisation requirements**

An exemption permit is granted if:

- a. the use of the preparation or article is not possible without mercury for technical reasons or the use of the preparation or article is not financially viable for a medium-sized and economically healthy enterprise of the sector without mercury; and
- b. evidence is provided that there are no significant risks for the environment and human health associated with the use of the mercury-containing preparation or mercury-containing article.

### 1.3.3 Application

An application must contain at least:

- a. information about the use of the mercury-containing preparation or mercury-containing article and the function that the mercury or mercury compound fulfils;
- b. information on the mercury content by mass or the identity and content of the mercury compound in the preparation or in the article by mass;
- c. information on the estimated annual quantity of the preparation or of the annual total weight of the article to be placed on the market;
- d. an assessment of the risks associated with the use of the preparation or article for human health and the environment, as well as information on the necessary protective measures;
- e. an analysis of whether the requirement specified in Number 1.3.2 letter a is met;
- f. a description of the research and development activities carried out to avoid the use of mercury in the preparation or the article.

## 1.4 Import

### 1.4.1 Licence requirement

<sup>1</sup> A licence from the FOEN is required by any person who wants to import for professional or commercial purposes:

- a. mercury (CAS no 7439-97-6);
- b. a preparation with a mercury content of 95 per cent and more by mass;
- c. a mercury compound not specified in Number 1.1 paragraph 1;
- d. an alloy of mercury.

<sup>2</sup> In addition, any person who intends to store substances and preparations or any other mercury compounds specified in paragraph 1 in a customs bonded warehouse, in a customs warehouse for bulk goods or in a duty-free warehouse requires an import licence as specified in paragraph 1.

### 1.4.2 Exemptions

No import licence is required by a person who:

- a. imports mercury (CAS no 7439-97-6) or a preparation with a mercury content of 95 per cent and more by mass from a country that is a signatory<sup>55</sup> to

<sup>55</sup> The list of the signatories can be found on the internet at the FOEN website under [www.bafu.admin.ch](http://www.bafu.admin.ch) > Topics > Chemicals > Information for specialists > Regulations and procedures > Mercury.

the Minamata Convention on Mercury of 10 October 2013<sup>56</sup> (Minamata Convention), provided that the substance or preparation is intended for analysis and research purposes;

- b. imports a mercury compound or alloy of mercury if the substance or preparation is intended for analysis and research purposes;
- c. imports a substance or preparation specified in letter a or b for use as a substance in a preparation or article, if the substance, preparation or article is intended for analysis and research purposes.

### 1.4.3 Licence conditions

An import licence is granted upon request, provided that:

- a. the substance or preparation intended to be imported is supplied for a permitted use as specified in Number 3;
- b. the importer confirms that the substance or preparation intended to be imported is not intended for re-export in a chemically altered or chemically unaltered form;
- c. if the exporting country is not a signatory to the Minamata Convention, the FOEN has a certificate from the exporting country stating that the mercury (CAS no 7439-97-6) intended for export or the preparation intended for export with a mercury content of 95 per cent and more by mass neither originated from the primary mercury mining nor from the chlorine-alkali industry.

### 1.4.4 Application

The application must contain at least:

- a. the name and address of the applicant;
- b. the name and address of the foreign importer;
- c. for each substance and each preparation to be imported:
  1. the chemical name in accordance with an internationally recognised nomenclature,
  2. the customs tariff number in accordance with the annexes to the CTA<sup>57</sup>,
  3. the intended use,
  4. the intended import quantity in kilogrammes,
  5. the confirmation specified in Number 1.4.3 letter b;
- d. a certificate as specified in Number 1.4.3 letter c.

<sup>56</sup> SR 0.814.82

<sup>57</sup> SR 632.10

### 1.4.5 Decision

<sup>1</sup> The FOEN decides within 30 days of having received all the necessary documents. It provides the import licence with a number.

<sup>2</sup> In each case, an import licence is granted for a period limited to 12 months.

### 1.4.6 Obligations relating to import and storage

<sup>1</sup> The person required to submit a declaration under Article 26 of the Customs Act of 18 March 2005<sup>58</sup> (CustA) must specify in the customs declaration:

- a. that the importation of mercury (CAS no 7439-97-6), a preparation with a mercury content of 95 per cent and more by mass, a mercury compound or an alloy of mercury is subject to authorisation in accordance with this Annex;
- b. the number of the import licence.

<sup>2</sup> At the request of the customs office, the person required to submit a declaration must submit a copy of the import licence as specified in this Annex.

<sup>3</sup> On storage in a customs bonded warehouse, in a customs warehouse for bulk goods or in a duty-free warehouse, the storer or depositor must enter the number of the import licence in an inventory record.

### 1.4.7 Retention requirement

The owner of the import licence must retain it for five years.

## 1.5 Reporting requirements

<sup>1</sup> Any person who imports mercury (CAS no 7439-97-6), a preparation with a mercury content of 95 per cent and more by mass, a mercury compound or alloy of mercury and does not require an import licence, in accordance with Number 1.4.2, must report to the FOEN annually by 30 April the quantities imported in the previous year, broken down by substances and preparations.

<sup>2</sup> Any person who, for the first time, supplies mercury derived from the domestic treatment of mercury waste or from a mercury compound derived from the domestic treatment of mercury waste, must report to the FOEN annually by 30 April the quantities supplied in the previous year, broken down by substances, and the names and addresses of the recipients.

<sup>58</sup> SR 631.0

## **2 Export**

### **2.1 Prohibitions**

The export of measuring instruments, switches and relays is prohibited unless placing them on the market is permitted.

### **2.2 Export licence**

#### **2.2.1 Licence requirement**

Any person who wishes to export mercury (CAS No 7439-97-6) or preparations with a mercury content of 95 per cent or more for professional or commercial purposes or to move the same from a customs bonded warehouse, a customs warehouse for bulk goods or a duty-free warehouse to another country requires an export licence from the FOEN.

#### **2.2.2 Licence conditions**

<sup>1</sup> An export licence shall be granted on application provided the mercury (CAS No 7439-97-6) or preparations with a mercury content of 95 per cent or more are intended for analysis and research purposes in the importing country and the FOEN has a certificate from the importing country confirming that the latter authorises the import.

<sup>2</sup> If the export is made to a country that is not a signatory<sup>59</sup> to the Minamata Convention, an export licence shall only be granted if the FOEN also has a certificate from the importing country confirming that the latter has put measures in place to protect human health and the environment when handling mercury.

#### **2.2.3 Application**

An application must contain at least:

- a. the name and address of the applicant;
- b. the name and address of the foreign importers, broken down according to recipient country;
- c. the anticipated export volume in kilogrammes per importer and recipient country;
- d. the anticipated date of the first export for each recipient country;

<sup>59</sup> The list of the signatories can be found on the internet at the FOEN website under [www.bafu.admin.ch](http://www.bafu.admin.ch) > Topics > Chemicals > Information for specialists > Regulations and procedures > Mercury.

- e. confirmation that the mercury (CAS No 7439-97-6) or the preparations with a mercury content of 95 per cent or more are being exported for analysis and research purposes;
- f. certificates in accordance with number 2.2.2 paragraphs 1 and 2.

#### **2.2.4 Decision**

<sup>1</sup> The FOEN shall decide within 30 days of receiving all the required documents. It shall give the export licence a number.

<sup>2</sup> An export licence shall be issued for a maximum of 12 months and in each case terminates at the end of a calendar year.

#### **2.2.5 Obligations relating to export**

<sup>1</sup> The person required to submit a declaration under Article 26 of the CustA must specify in the customs declaration:

- a. that a licence is required in terms of this Annex for the export of mercury (CAS No 7439-97-6) or a preparation with a mercury content of 95 per cent or more;
- b. the number of the export licence.

<sup>2</sup> At the request of the customs office, the person required to submit a declaration must submit a copy of the import licence as specified in this Annex.

<sup>3</sup> On removal from a customs bonded warehouse, a customs warehouse for bulk goods or a duty-free warehouse, the storer or depositor must enter the number of the export licence in an inventory record.

#### **2.2.6 Retention requirement**

The exporter must retain the export licence for five years.

### **3 Use**

#### **3.1 Prohibitions**

Prohibited is the use of:

- a. mercury (CAS no 7439-97-6), mercury compounds and mercury-containing preparations for the manufacture of:
  - 1. mercury-containing substances, preparations and articles, provided that they cannot be placed on the market as specified in Number 1.1 paragraphs 1–3 and Numbers 1.2 and 1.3,
  - 2. batteries that contain more than 5 mg mercury per kg, and their components;
- b. dental amalgam, if priority can be given to a different filling material for medical reasons;

- c. mercury (CAS no 7439-97-6), mercury compounds and mercury-containing preparations as auxiliary substances in industrial manufacturing processes.

## **3.2 Exemption authorisations**

### **3.2.1 Principle**

<sup>1</sup> On request, the FOEN, with the agreement of the FOPH, may grant temporary exemptions from the prohibition specified in Number 3.1 letter c if the mercury (CAS no 7439-97-6), the mercury compounds or the mercury-containing preparations are not be used for chlorine-alkali electrolysis or in the manufacture of acetaldehyde, vinyl chloride, sodium- or potassium-methylate or ethylate.

<sup>2</sup> An authorisation granted within the meaning of paragraph 1 is subject to an authorisation granted on the basis of Number 2.2 paragraph 1 of this Annex in the version of 1 July 2015<sup>60</sup>.

### **3.2.2 Authorisation requirements**

An exemption permit is granted, provided that:

- a. mercury-free auxiliary substances cannot be used for technical reasons or the use of these auxiliary substances is not financially viable for a medium-sized and economically healthy enterprise of the sector; and
- b. the volume of the mercury emissions into the environment is reduced to a minimum and measures necessary to protect human health and the environment are taken.

### **3.2.3 Application**

An application must contain at least:

- a. the identity of the mercury-containing auxiliary substance and information about the use of the auxiliary substance to be approved;
- b. a mercury mass balance, including information about the fate of the mercury in the environment and in waste;
- c. an assessment of the risks associated with the use of the auxiliary substance for human health and the environment, as well as information on the necessary protective measures;
- d. an analysis of whether the requirement specified in Number 3.2.2 letter a is met;
- e. a description of the research and development activities undertaken to avoid the use of the mercury-containing auxiliary substance.

<sup>60</sup> AS 2015 2367

## 4 Transitional provisions

### 4.1 Placing on the market

<sup>1</sup> The prohibitions specified in Number 1.1 paragraphs 1 letters a–e and 3 do not apply to mercury compounds or preparations and articles that contain the mercury compounds specified in Number 1.1 paragraph 1 letters a–e, which were first placed on the market before 10 October 2017.

<sup>2</sup> The prohibitions specified in Number 1.1 paragraphs 1 letter f and 3 do not apply to mercury compounds or preparations and articles that contain the mercury compounds specified in Number 1.1 paragraph 1 letter f, which were first placed on the market before 1 January 2018.

<sup>3</sup> The prohibition specified in Number 1.1 paragraph 2 letter b does not apply to the placing on the market of sphygmomanometers intended for use in epidemiological tests, which had not been completed by 1 September 2015.

### 4.2 Export

<sup>1</sup> In derogation from numbers 2.2.1–2.2.2, the FOEN shall on application authorise the export of mercury (CAS No 7439-97-6) that was imported before 1 January 2018 or extracted in Switzerland from waste containing mercury for the uses and until the dates listed below, provided a certificate approving the import issued by the importing country is submitted:

Use	Date
Manufacture of discharge lamps	31 December 2020
Maintenance of rolling seam welding machines that work with roller heads containing mercury	31 December 2020
Manufacture of dental amalgam capsules	31 December 2027

<sup>2</sup> If the export is made to a country that is not a signatory<sup>61</sup> to the Minamata Convention, an export licence shall only be granted if the FOEN also has a certificate from the importing country confirming that the latter has put measures in place to protect human health and the environment when handling mercury.

<sup>3</sup> An application must contain at least:

- the name and address of the applicant;
- the name and address of the foreign importer;
- the intended use;
- the export volume in kilogrammes;

<sup>61</sup> The list of the signatories can be found on the internet at the FOEN website under [www.bafu.admin.ch](http://www.bafu.admin.ch) > Topics > Chemicals > Information for specialists > Regulations and procedures > Mercury.

- e. a written declaration from the recipient in which it undertakes to use the mercury (CAS No 7439-97-6) for one of the purposes listed in paragraph 1;
- f. certificates in accordance with paragraphs 1 and 2.

<sup>4</sup> Numbers 2.2.4–2.2.6 apply in relation to the decision, export obligations and the retention requirement.

<sup>5</sup> DETEC may extend the period allowed in paragraph 1 for the manufacture of dental amalgam capsules. In doing so, it shall take account of the demand for mercury for use in dental amalgam in contracting parties to the Minamata Convention, the measures taken by contracting parties to reduce the release of mercury when using of dental amalgam and progress made in ending the use of dental amalgam in the European Union.

### 4.3 Use

A request based on the previous law under Number 2.2 paragraph 1 will be assessed in accordance with the previous law.

*Annex 1.8*<sup>62</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 the content of octylphenol (molecular formula  $C_{14}H_{22}O$ ), nonylphenol (molecular formula  $C_{15}H_{24}O$ ) or their ethoxylates is 0.1% or more by mass:

- a. laundry detergents as defined in Annex 2.1;
- b. cleaning products as defined in Annex 2.2;
- c. cosmetic products as defined in Art. 35 of the Foodstuffs and Utility Articles Ordinance of 16 December 2016<sup>63</sup>;
- d. textile processing agents;
- e. leather processing agents;
- f. metalworking agents;
- g. additives for the manufacture of pulp 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 specified in paragraph 1 are intended.

### 2 Exemptions

The prohibitions specified in Number 1 do not apply to:

- a. spermicides;
- b. textile and leather processing agents if:
  1. processing does not result in the release of octylphenol ethoxylates or nonylphenol ethoxylates into wastewater, or
  2. in installations for special treatment, such as sheepskin degreasing, process water is pretreated to remove the organic fraction completely prior to biological wastewater treatment;
- c. metalworking agents for use in controlled closed systems where the washing liquid is recycled or incinerated.

<sup>62</sup> Revised by Annex 2 No II of the Foodstuffs and Utility Articles Ordinance of 23 Nov. 2005 (AS 2005 5451) and No I of the O of 25 Oct. 2017, in force since 1 Jan. 2018 (AS 2017 5963).

<sup>63</sup> SR 817.02

### **3 Transitional provisions**

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

- a. from 1 August 2006, if they contain nonylphenol or its ethoxylates;
- b. 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 specified in Number 1 paragraph 1 letters b–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 specified in Number 1 paragraph 1 letters b–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.

*Annex 1.9*<sup>64</sup>  
(Art. 3)

## **Flame retardants**

### **1 Organophosphorus compounds**

#### **1.1 Definition**

*Flame-retardant organophosphorus compounds* are:

- 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 specified in Number 1.1 which are intended to be worn directly or indirectly next to the skin (clothing, wigs, fancy dress, etc.) or used in room furnishings (bed linen, tablecloths, furniture fabrics, carpets, curtains, etc.).

**2 ...**

<sup>64</sup> Revised by No 16 of the O of 10 Dec. 2010, (AS **2011** 113), No II para. 3 of the O of 7 Nov. 2012 (AS **2012** 6161) and No II para. 2 of the O of 1 July 2015, in force since 1 Sept. 2015 (AS **2015** 2367).

*Annex 1.10*<sup>65</sup>  
(Art. 3)

## Substances classified as carcinogenic, mutagenic or toxic to reproduction

### 1 Prohibition

<sup>1</sup> It is prohibited to supply to the general public substances classified as carcinogenic, mutagenic or toxic to reproduction according to Annex XVII, Appendices 1–6 to Regulation (EC) No 1907/2006 (EU REACH Regulation)<sup>66</sup>, or substances and preparations containing them, if they have a content by mass exceeding the concentration specified in Annex I No 1.1.2.2 to Regulation (EC) No 1272/2008<sup>67</sup>.

<sup>2</sup> The Federal Office of Public Health (FOPH), with the agreement of the Federal Office for the Environment (FOEN) and SECO, shall amend the provisions of paragraph 1 to comply with amendments to Annex XVII, Appendices 1 – 6 of Regulation (EC) No 1907/2006.

### 2 Exemptions

<sup>1</sup> The prohibition specified in Number 1 does not apply to:

- a. medicinal products;
- b. artists' paints, subject to Annex 1.17;
- c. motor fuels;
- d. mineral oil products used as heating fuels in mobile or fixed combustion plants, and heating fuels in closed systems;
- e. substances listed in Annex XVII, Appendix 11, Column 1 of Regulation (EC) No 1907/2006<sup>68</sup>, with the applications and any time limits listed in Column 2.

<sup>65</sup> Amended by No II para. 2 of the O of 7 Nov. 2012 (AS **2012** 6161). Revised by No I of the FOPH Ordinance of 17 Nov. 2014 (AS **2014** 3891), No II para. 2 of the O of 1 July 2015 (AS **2015** 2367), No I of the O of 25 Oct. 2017 (AS **2017** 5963), No I of the FOPH Ordinance of 5 Feb. 2018 (AS **2018** 715) and of 31 Oct 2018, in force since 1 Dec 2018 (AS **2018** 4069).

<sup>66</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, OJ L 396, 30.12.2006, p. 1; last amended by Regulation (EU) 2018/675, OJ L 114 of 4.5.2018, p. 4.

<sup>67</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No 1907/2006, OJ L 353, 31.12.2008, p. 1; last amended by Regulation (EU) 2018/669, OJ L 115 of 4.5.2018, p. 1.

<sup>68</sup> See footnote to No 1 para. 1.

<sup>2</sup> The FOPH, with the agreement of the FOEN and SECO, shall amend the provisions of paragraph 1 letter e to comply with amendments to Annex XVII, Appendix 11 of Regulation (EC) No 1907/2006.

<sup>3</sup> For carcinogens, mutagens or substances toxic to reproduction in cosmetic products, the Foodstuffs and Utility Articles Ordinance of 16 December 2016<sup>69</sup> on applies.

### **3 Special labelling**

<sup>1</sup> The packaging of substances and preparations subject to the prohibition specified in Number 1 must be marked as follows: «Restricted to professional users».

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

### **4 Transitional Provision to the Amendment of 31 October 2018**

Substances included by Regulation (EU) 2018/675<sup>70</sup> in Annex XVII Appendices 1–6 of the EU REACH Regulation, and substances and preparations that contain such substances may not be supplied to the general public before 31 May 2019.

<sup>69</sup> SR 817.02

<sup>70</sup> Commission Regulation (EU) 2018/675 of 2 May 2018 amending the Appendices to Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards CMR substances, amended by OJ. L 114 of 4.5.2018, p. 4.

*Annex 1.11*<sup>71</sup>  
(Art. 3)

## Dangerous liquid substances

### 1 Definition

*Dangerous liquid substances and preparations* are liquid preparations with one of the properties specified in Article 2 paragraph 2 of Directive 1999/45/EC<sup>72</sup> or liquid substances and preparations which fulfil the criteria for any of the following hazard classes or categories listed in Annex I to Regulation (EC) No 1272/2008<sup>73</sup>:

- a. hazard classes 2.1 – 2.4, 2.6, 2.7, 2.8 types A and B, 2.9, 2.10, 2.12, 2.13 categories 1 and 2, 2.14 categories 1 and 2, 2.15 types A – F;
- b. hazard classes 3.1 – 3.6, 3.7 owing to adverse effects on sexual function and fertility or on development, 3.8 effects other than narcotic effects, 3.9 and 3.10;
- c. hazard class 4.1;
- d. hazard class 5.1.

### 2 Prohibitions

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

- a. ornamental articles intended to produce light or colour effects by means of different phases;
- b. tricks and jokes;
- c. games or articles intended to be used as such, even with ornamental aspects.

<sup>71</sup> Amended by No II para. 2 of the O of 7 Nov. 2012, in force since 1 Dec. 2012 (AS 2012 6161).

<sup>72</sup> Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations, OJ L 200, 30.7.1999, p. 1; last amended by Regulation (EC) No 1272/2008, OJ L 353, 31.12.2008, p. 1. The texts of the European Union legal documents mentioned in this Annex may be accessed at: <http://eur-lex.europa.eu/>

<sup>73</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No 1907/2006, OJ L 353, 31.12.2008, p. 1; last amended by Regulation (EU) No 618/2012, OJ L 179, 11.7.2012, p. 3.

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

- a. which present an aspiration hazard and are labelled with R 65 in accordance with Annex III to Directive 67/548/EEC<sup>74</sup> or H304 in accordance with Annex III to Regulation (EC) No 1272/2008<sup>75</sup>; and
- b. which can be used as fuel in decorative lamps (lamp oil) and are intended for supply to the general public.

### 3 Special labelling

<sup>1</sup> The packaging of lamp oils labelled with R 65 or H304 and intended for supply to the general public must be marked as follows: «Keep lamps filled with this liquid out of the reach of children. Just a sip of lamp oil – or even sucking the wick of lamps – may lead to life-threatening lung damage».

<sup>2</sup> The packaging of grill lighter fluids labelled with R 65 or H304 and intended for supply to the general public must be marked as follows: «Just a sip of grill lighter may lead to life-threatening lung damage».

<sup>3</sup> This marking must appear in at least two official languages, be clearly legible and indelible.

### 4 Special packaging

<sup>1</sup> Lamp oils and grill lighter fluids labelled with R 65 or H304 and intended for supply to the general public must be packaged in black opaque containers not exceeding 1 litre.

<sup>2</sup> Decorative oil lamps for supply to the general public may only be placed on the market if they comply with the standard SN EN 14059:2002<sup>76</sup>.

<sup>74</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances, OJ L 196, 16.8.1967, p. 1; last amended by Directive 2009/2/EC, OJ L 11, 16.1.2009, p. 6.

<sup>75</sup> See footnote to No 1.

<sup>76</sup> This standard can be purchased from the Swiss information centre for technical rules (switec), Bürglistrasse 29, CH-8400 Winterthur ([www.snv.ch](http://www.snv.ch)). It may be inspected free of charge at the FOEN, Worblenthalstr. 68, CH-3063 Ittigen.

*Annex 1.12*<sup>77</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 with a benzene content of 0.1% or more by mass.

#### **1.2 Exemptions**

<sup>1</sup> The prohibitions specified in 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> For petrol, the above is without prejudice to the provisions of the Ordinance of 16 December 1985<sup>78</sup> on Air Pollution Control.

### **2<sup>79</sup> Toluene**

It is prohibited to place on the market and to use toluene (CAS no 108-88-3) and preparations with a toluene content of 0.1% or more by mass in adhesives and spray paints intended for supply to the general public.

<sup>77</sup> Amended by No I 2 of the O of 15 Dec. 2006, in force since 1 March 2007 (AS 2007 111).

<sup>78</sup> SR 814.318.142.1

<sup>79</sup> In force from 1 Sept. 2008.

*Annex 1.13*<sup>80</sup>  
(Art. 3)

## Nitroaromatics, aromatic amines and azo dyes

### 1 Definition

*Blue colourant* means the azo dye with the components:

- 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<sub>39</sub>H<sub>23</sub>ClCrN<sub>7</sub>O<sub>12</sub>S<sub>2</sub>Na; 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<sub>46</sub>H<sub>30</sub>CrN<sub>10</sub>O<sub>20</sub>S<sub>2</sub>.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-biphenylamine (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 by mass of the substances specified in paragraph 1.

<sup>3</sup> It is prohibited to place on the market and to use blue colourant or any substances or preparations with a blue colourant content of 0.1% or more by mass for dyeing textiles or leather goods.

### 3 Exemptions

<sup>1</sup> The prohibitions specified in Number 2 paragraphs 1 and 2 do not apply to placing on the market and use for analysis and research purposes.

<sup>2</sup> For azo dyes which are used in textiles and leather goods and may release substances specified in Number 2 paragraph 1 or other aromatic amines, Article 64 paragraph 2 of the Foodstuffs and Utility Articles Ordinance of 16 December 2016<sup>81</sup> applies.

<sup>80</sup> Revised by Annex 2 No II of the Foodstuffs and Utility Articles Ordinance of 23 Nov. 2005 (AS 2005 5451) and No I of the O of 25 Oct. 2017, in force since 1 Jan. 2018 (AS 2017 5963).

<sup>81</sup> SR 817.02

**4 Transitional provision**

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

*Annex 1.14*<sup>82</sup>  
(Art. 3)

## Organotin compounds

### 1 Di-substituted organotin compounds

#### 1.1 Definitions

<sup>1</sup> *Preparations containing dibutyltin compounds or dioctyltin compounds* are preparations which contain dibutyltin compounds or dioctyltin compounds and have a tin content of 0.1% or more by mass.

<sup>2</sup> *Articles containing dibutyltin compounds or dioctyltin compounds* are articles which contain dibutyltin compounds or dioctyltin compounds and where the tin content in the article, or part thereof, is 0.1% or more by mass.

#### 1.2 Prohibitions

It is prohibited to place on the market:

- a. preparations and articles which contain dibutyltin compounds and are intended for supply to the general public;
- b. preparations and articles which contain dioctyltin compounds and are intended for supply to the general public for the following applications:
  1. two-component room temperature vulcanisation moulding kits (RTV-2 moulding kits),
  2. wall and floor coverings.

#### 1.3 Relationship to the Foodstuffs and Utility Articles Ordinance of 16 December 2016<sup>83</sup>

For textiles, leather products and other articles intended to come into contact with the skin which contain dioctyltin compounds, and for articles which contain dibutyltin compounds and are intended, in connection with food production, use or packaging, to come into contact with food, the Foodstuffs and Utility Articles Ordinance applies.

<sup>82</sup> Amended by No II para. 2 of the O of 7 Nov. 2012 (AS 2012 6161). Revised by No II para. 2 of the O of 1 July 2015 (AS 2015 2367) and No I of the O of 25 Oct. 2017, in force since 1 Jan. 2018 (AS 2017 5963).

<sup>83</sup> SR 817.02

## **2 Tri-substituted organotin compounds**

### **2.1 Definitions**

<sup>1</sup> *Preservatives* refers to:

- a. biocidal products used to protect service water from contamination with harmful organisms in the industrial, commercial or municipal sector;
- b. biocidal products of product type 6 (in-can preservatives) as defined in Annex 10 to the OBP<sup>84</sup>;
- c. biocidal products of product type 7 (film preservatives) as defined in Annex 10 to the OBP.

<sup>2</sup> *Antifouling products* are biocidal products of product type 21 as defined in Annex 10 to the OBP.

<sup>3</sup> *Articles containing tri-substituted organotin compounds* are articles which contain tri-substituted organotin compounds and where the tin content in the article, or part thereof, is 0.1% or more by mass.

### **2.2 Prohibitions**

It is prohibited:

- a. to place on the market or use, in paints or varnishes or for service water, preservatives containing trialkyl or triaryl tin compounds;
- b. to place on the market or use antifouling products containing trialkyl or triaryl tin compounds;
- c. to manufacture or place on the market articles containing tri-substituted organotin compounds.

### **2.3 Exemptions**

<sup>1</sup> The prohibitions specified in Number 2.2 letters a and b do not apply for research and development purposes.

<sup>2</sup> The prohibitions specified in Number 2.2 letter a do not apply to paints and varnishes in which trialkyl or triaryl tin compounds are chemically bound.

## **3 Di- $\mu$ -oxo-di-n-butylstanniohydroxyborane (DBB)**

### **3.1 Prohibitions**

<sup>1</sup> It is prohibited to place on the market and to use dibutyltin hydrogen borate (di- $\mu$ -oxo-di-n-butylstanniohydroxyborane, 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 with a DBB content of 0.1% or more by mass.

### **3.2 Exemptions**

The prohibitions specified in Number 3.1 do not apply:

- a. to placing on the market and use for analysis and research purposes;
- b. if a conversion process produces finished products with a DBB content of less than 0.1% by mass.

## **4 Transitional provisions**

<sup>1</sup> The prohibition specified in Number 1.2 letter a does not apply to articles containing dibutyltin compounds which were first placed on the market before 1 June 2013.

<sup>2</sup> The following preparations and articles containing dibutyl tin compounds may continue to be placed on the market until 1 January 2015:

- a. one- and two-component room temperature vulcanisation sealants (RTV-1 and RTV-2 sealants);
- b. adhesives;
- c. paints and coatings containing dibutyl tin compounds as catalysts when applied on articles;
- d. soft polyvinyl chloride (PVC) profiles whether by themselves or coextruded with hard PVC;
- e. fabrics coated with PVC containing dibutyl tin compounds as stabilisers when intended for outdoor applications;
- f. outdoor rainwater pipes, gutters and fittings, as well as covering material for roofing and façades.

<sup>3</sup> The prohibition specified in Number 1.2 letter b does not apply to RTV-2 moulding kits or wall and floor coverings containing dioctyl tin compounds which were first placed on the market before 1 June 2013.

<sup>4</sup> The prohibition on placing on the market specified in Number 2.2 letter c does not apply to articles containing tri-substituted organotin compounds which were first placed on the market before 1 June 2013.

## Tars

### 1 Definitions

<sup>1</sup> The following preparations are deemed to be tar-containing if, on account of the concentration of tar constituents, they exceed the following limits specified for polycyclic aromatic hydrocarbons (PAHs):

Preparations	Limit <sup>86</sup>
Binders used in surfacings, such as foundation, base, binder and surface courses	100mg/kg
Preparations for surface dressing of paved surfaces	100mg/kg
Joint sealants for paved surfaces	100mg/kg
Paints and varnishes	100mg/kg

<sup>2</sup> *Tar-containing clay pigeons* are articles used as aerial targets in shooting which contain more than 30 mg PAHs per kilogram<sup>87</sup>.

### 2 Prohibitions

It is prohibited:

- a. to place on the market tar-containing preparations for surface dressing of paved surfaces;
- b. to place on the market tar-containing joint sealants for paved surfaces;
- c. to manufacture surfacings, such as foundation, base, binder and surface courses, using tar-containing binders;
- d. to place on the market tar-containing clay pigeons;
- e. to place on the market tar-containing paints and varnishes.

<sup>85</sup> Inserted by No I 4 of the O of 10 Dec. 2010, in force since 1 Dec. 2012 (AS 2011 113).

<sup>86</sup> Overall limit for the following PAHs:  
naphthalene (CAS number 91-20-3), acenaphthylene (208-96-8), acenaphthene (83-32-9), fluorene (86-73-7), phenanthrene (85-01-8), anthracene (120-12-7), fluoranthene (206-44-0), pyrene (129-00-0), benzo[a]anthracene (56-55-3), chrysene (218-01-9), benzo[b]fluoranthene (205-99-2), benzo[k]fluoranthene (207-08-9), benzo[a]pyrene (50-32-8), indeno[1,2,3-cd]pyrene (193-39-5), dibenzo[a,h]anthracene (53-70-3) and benzo[g,h,i]perylene (191-24-2).

<sup>87</sup> Overall limit for the following PAHs:  
naphthalene (CAS number 91-20-3), acenaphthylene (208-96-8), acenaphthene (83-32-9), fluorene (86-73-7), phenanthrene (85-01-8), anthracene (120-12-7), fluoranthene (206-44-0), pyrene (129-00-0), benzo[a]anthracene (56-55-3), chrysene (218-01-9), benzo[b]fluoranthene (205-99-2), benzo[k]fluoranthene (207-08-9), benzo[a]pyrene (50-32-8), indeno[1,2,3-cd]pyrene (193-39-5), dibenzo[a,h]anthracene (53-70-3) and benzo[g,h,i]perylene (191-24-2).

### 3 Exemptions

<sup>1</sup> The prohibitions specified in Number 2 are not applicable in cases where authorisations have been granted by the European Commission in accordance with Article 60 paragraph 1 of Regulation (EC) No 1907/2006<sup>88</sup>.

<sup>2</sup> On receipt of a justified request, the FOEN may, with the agreement of the FOPH and SECO, grant further (possibly temporary) exemptions to the prohibitions specified in Number 2 letters a–c and e, if:

- a. in the current state of technology, no substitutes for tar-containing preparations are available;
- b. the quantity of tar-containing preparations used is no greater than is essential for the intended purpose; and
- c. risks to human health and the environment are adequately limited.

<sup>88</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, OJ L 396, 30.12.2006, p. 1; last amended by Commission Regulation (EU) No 453/2010 of 20 May 2010, OJ L 133, 31.05.2010, p. 1. The texts of the European Union legal documents mentioned in this Annex may be accessed at: [www.cheminfo.ch](http://www.cheminfo.ch)

*Annex 1.16*<sup>89</sup>  
(Art. 3)

## Perfluorooctane sulfonates

### 1 Definition

*Perfluorooctane sulfonic acid and its derivatives* (PFOS) are substances with the molecular formula  $C_8F_{17}SO_2X$ , where  $X = OH$ , metal salt  $[O-M^+]$ , halide, amide, and other derivatives including polymers.

### 2 Prohibitions

<sup>1</sup> It is prohibited to manufacture, place on the market or use PFOS, or any substance or preparation containing PFOS in a concentration equal to or greater than 0.001% by mass.

<sup>2</sup> It is prohibited to place on the market new articles, or parts thereof with the following values:

- a. a concentration of PFOS equal to or greater than 0.1% by mass calculated with reference to the mass of structurally or microstructurally distinct parts that contain PFOS; or
- b. for textiles or other coated materials: an amount of PFOS equal to or greater than  $1 \mu\text{g}/\text{m}^2$  of the coated material.

### 3 Exemptions

<sup>1</sup> The prohibitions specified in Number 2 do not apply to manufacture, placing on the market or use for analysis and research purposes.

<sup>2</sup> In addition, the prohibitions specified in Number 2 do not apply to the following items, or to substances or preparations needed to manufacture them:

- a. photoresists or anti-reflective coatings for photolithography processes;
- b. photographic coatings applied to films, papers, or printing plates;
- c. mist suppressants for non-decorative hard chromium (VI) plating in closed loop systems where the amount of PFOS released into the environment is minimised;
- d. hydraulic fluids for aviation;

<sup>89</sup> Inserted by No I 4 of the O of 10 Dec. 2010 (AS 2011 113). Revised by No II para. 3 of the O of 7 Nov. 2012, in force since 1 Dec. 2012 (AS 2012 6161)

#### **4 Reporting requirements**

<sup>1</sup> Any person who uses PFOS or substances and preparations containing PFOS as specified in Number 3 paragraph 2 or in Number 5 paragraph 2 must provide the FOEN by 30 April of each year with the following information in respect of the previous year:

- a. the name of the substance or preparation and the name of the supplier;
- b. the quantity of PFOS used, expressed in kilograms;
- c. information on the purpose for which PFOS have been used;
- d. the amount of PFOS released into the environment during their use, expressed in kilograms;
- e. information on the potential for avoiding the use of PFOS.

<sup>2</sup> Owners of fire-fighting foams that were placed on the market before 1 August 2011 (Number 5) must report to the FOEN each year, by 30 April, the amount of fire-fighting foam containing PFOS, expressed in kilograms, held on 31 December of the previous year. The first report must also include the name of the fire-fighting foam, the name of the manufacturer and available data on the concentration of PFOS, by mass, in the fire-fighting foam.

#### **5 Transitional provisions**

<sup>1</sup> Notwithstanding the prohibition specified in Number 2 paragraph 1, fire-fighting foams containing PFOS which were placed on the market before 1 August 2011 may be used as follows:

- a. in fire safety installations, including use in any functional tests required for such installations: until 30 November 2018;
- b. by fire services and military personnel for fire-fighting in operational situations: until 30 November 2014.

<sup>2</sup> Until 31 August 2015, the prohibitions specified in Number 2 paragraph 1 do not apply to wetting agents for use in controlled electroplating systems, or to substances or preparations needed to manufacture them, if the amount of PFOS released into the environment is minimised.

*Annex I.1790*  
(Art.3)

## **Substances listed in Annex XIV to Regulation (EC) No 1907/2006<sup>91</sup>**

### **1 Prohibitions**

It is prohibited to place on the market for use the substances listed in Number 5 or preparations containing such substances, or to use them on a professional or commercial basis, subject to the exemptions specified in Number 2 and in the list under Number 5.

### **2 Exemptions**

<sup>1</sup> The prohibitions specified in Number 1 do not apply to use:

- a. as an intermediate as defined in Article 2 paragraph 2 letter j of the Chemicals Ordinance of 5 June 2015<sup>92</sup> (ChemO);
- b. in medicinal products;
- c. in foodstuffs or feedingstuffs;
- d. in plant protection products;
- e. in biocidal products;
- f. as a motor fuel;
- g. in mineral oil products used as fuels in mobile or fixed combustion plants, and fuels in closed systems;
- h. in cosmetic products, provided that the substance has been included in the list under Number 5 solely on the basis of the intrinsic properties «carcinogenic», «mutagenic», «toxic to reproduction» or «other serious effects to human health»;
- i. in food contact materials and articles, provided that the substance has been included in the list under Number 5 solely on the basis of the intrinsic prop-

<sup>90</sup> Inserted by No II para. 1 of the O of 7 Nov. 2012 (AS **2012** 6161). Revised by No II para. 2 of the O of 1 July 2015 (AS **2015** 2367), No I of the FOEN Ordinance of 27 Oct. 2016 (AS **2016** 4051) and of 10 Jan. 2017 (AS **2017** 173) and of 27 Sept. 2018, in force since 1 Nov. 2018 (AS **2018** 3519) and the correction of 26 Feb. 2019 (AS **2019** 759).

<sup>91</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, OJ L 396, 30.12.2006, p. 1; last amended by Regulation (EU) No 2017/999, OJ L 150, 14.6.2017, p. 7.

<sup>92</sup> SR **813.11**

erties «carcinogenic», «mutagenic», «toxic to reproduction» or «other serious effects to human health»;

- j. in scientific research and development;
  - k. of substances present in preparations below a concentration limit of 0.1 per cent by mass and included in the list under Number 5 on the basis of Article 57 letters d, e or f of Regulation (EC) No 1907/2006<sup>93</sup>;
  - l. of substances present in preparations below the lowest of the concentration limits specified in Annex I number 1.1.2.2 of Regulation (EC) No 1272/2008<sup>94</sup> which result in the classification of the mixture as dangerous, and not included in the list under Number 5 on the basis of Article 57 letters d, e or f of Regulation (EC) No 1907/2006.
- <sup>2</sup> In addition, a prohibition specified in Number 1 does not apply:
- a. in cases where authorisations have been granted by the European Commission in accordance with Article 60 paragraph 1 of Regulation (EC) No 1907/2006 and the substance is placed on the market and used in accordance with the EU authorisation; or
  - b. to those uses of the substance in question for which an application for authorisation has been made, within the deadline set, in accordance with Article 62 of Regulation (EC) No 1907/2006, on which a decision has not yet been taken.

<sup>3</sup> If so requested by the Notification Authority as specified in Article 77 ChemO, the importer must furnish the authorisation dossier submitted to the European Chemicals Agency, provided that it can be obtained without unreasonable effort.

<sup>4</sup> On receipt of a justified request, the Notification Authority may, with the agreement of the Federal Office for the Environment (FOEN), the Federal Office of Public Health (FOPH) and SECO, grant further, temporary exemptions from the prohibitions specified in Number 1, with the assignment of a number (approval number), if:

- a. the applicant provides the information specified in Article 62 paragraphs 4–6 of Regulation (EC) No 1907/2006, with the socioeconomic analysis being tailored to the situation in Switzerland; and
- b. the requirements for the granting of an authorisation in accordance with Article 60 paragraphs 2–10 of Regulation (EC) No 1907/2006 are fulfilled *mutatis mutandis*.

<sup>4bis</sup> The Notification Authority may, with the agreement with the assessment authorities of the FOEN, FOPH and SECO, avoid the presentation of certain information as specified in Paragraph 4 if appropriate.

<sup>93</sup> See footnote on the title of this Annex.

<sup>94</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No 1907/2006, OJ L 353, 31.12.2008, p. 1; last amended by Regulation (EU) 2015/491, OJ L 78, 24.3.2015, p. 12.

<sup>5</sup> Requests in accordance with paragraph 4 must be submitted no later than 18 months before the expiry of the transitional period specified in Number 5 paragraph 1. The Notification Authority shall grant an appropriate extension if, no later than 18 months before the expiry of the transitional period, it is credibly demonstrated that the necessary documentation cannot be furnished within the specified period.

<sup>6</sup> For uses for which the European Commission has refused to grant authorisation under Article 60 paragraph 1 of Regulation (EC) No 1907/2006, a request in accordance with paragraph 4 may be submitted within 3 months after the refusal. In addition to the documentation specified in paragraph 4 letter a, the following items must be enclosed with such a request:

- a. the application for authorisation originally submitted to the European Commission;
- b. the refusal issued by the European Commission.

<sup>7</sup> Pending a decision on a request in accordance with paragraph 4, notwithstanding Number 1, the requested uses of the substance in question, and of preparations containing this substance, are permitted.

<sup>8</sup> The Notification Authority shall, with due regard to Article 73 ChemO, publish on its website information on the requested uses of the substances concerned and specify a period within which information on alternative substances or technologies may be submitted by interested third parties.

<sup>9</sup> It shall maintain, in electronic form, a publicly accessible register of the exemptions granted under paragraph 4. The register shall include the following details:

- a. name, or company name, of the holder of the approval;
- b. approval number;
- c. name of the substance in accordance with Number 5, paragraph 1, «Substance» column;
- d. trade name of the substance or preparation;
- e. approved use;
- f. term of and conditions attached to the approval.

### **3 Reporting requirements**

<sup>1</sup> Any person who obtains from a manufacturer or trader and uses on a professional or commercial basis a substance listed in Number 5 paragraph 1, or a preparation containing such a substance, must provide the Notification Authority, within three months after the first delivery, with details of the use and the approval number or EU authorisation number of the substance concerned.

<sup>2</sup> The Notification Authority shall establish and keep up to date a register of reports made in accordance with paragraph 1.

#### 4 Special labelling

In the case of substances for which authorisation has been granted in accordance with Number 2 paragraphs 2 or 4, and preparations containing such substances, the approval number or EU authorisation number must be indicated on the label.

#### 5 List of substances specified in Number 1 and transitional provisions

<sup>1</sup> Number 1 applies to the substances listed below, with the conditions stipulated in the columns «Transitional period», «Exempted (categories of) uses» and «Review periods».

Entry no	Substance	Intrinsic properties underlying the prohibition	Transitional period	Exempted (categories of) uses	Review periods
1.	5-tert-Butyl-2,4,6-trinitro-m-xylene (musk xylene) EC no: 201-329-4 CAS no: 81-15-2	vPvB	21 August 2014	-	-
2.	4,4'-methylenedianiline (MDA) EC no: 202-974-4 CAS no: 101-77-9	Carcinogenic (category 1B)	21 August 2014	-	-
3.	...	...	...	-	-
4.	di-(2-ethylhexyl) phthalate (DEHP) EC no: 204-211-0 CAS no: 117-81-7	Toxic for reproduction (category 1B)	21 February 2015	Uses in the immediate packaging of medicinal products covered under Regulation (EC) No 726/2004 <sup>95</sup> , Directive 2001/82/EC <sup>96</sup> and/or Directive 2001/83/EC <sup>97</sup>	

<sup>95</sup> Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency, OJ L 136, 30.4.2004, p. 1; last amended by Regulation (EU) No 1235/2010, OJ L 348, 31.12.2010, p. 1.

<sup>96</sup> Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products, OJ L 311, 28.11.2001, p. 1; last amended by Regulation (EC) No 596/2009, OJ L 188, 18.7.2009, p. 14.

<sup>97</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, OJ L 311, 28.11.2001, p. 67; last amended by Directive 2011/62/EU, OJ L 174, 1.7.2011, p. 74.

Entry no	Substance	Intrinsic properties underlying the prohibition	Transitional period	Exempted (categories of) uses	Review periods
5.	Benzyl butyl phthalate (BBP) EC no: 201-622-7 CAS no: 85-68-7	Toxic for reproduction (category 1B)	21 February 2015	Uses in the immediate packaging of medicinal products covered under Regulation (EC) No 726/2004, Directive 2001/82/EC and/or Directive 2001/83/EC	
6.	Dibutyl phthalate (DBP) EC no: 201-557-4 CAS no: 84-74-2	Toxic for reproduction (category 1B)	21 February 2015	Uses in the immediate packaging of medicinal products covered under Regulation (EC) No 726/2004, Directive 2001/82/EC and/or Directive 2001/83/EC	
7.	Diisobutyl phthalate (DIBP) EC no: 201-553-2 CAS no: 84-69-5	Toxic for reproduction (category 1B)	21 February 2015	-	-
8.	Diarsenic trioxide EC no: 215-481-4 CAS no: 1327-53-3	Carcinogenic (category 1A)	21 May 2015	-	-
9.	Diarsenic pentaoxide EC no: 215-116-9 CAS no: 1303-28-2	Carcinogenic (category 1A)	21 May 2015	-	-
10.	Lead chromate EC no: 231-846-0 CAS no: 7758-97-6	Carcinogenic (category 1B) Toxic for reproduction (category 1A)	21 May 2015	-	-
11.	Lead sulfochromate yellow (C.I. Pigment Yellow 34) EC no: 215-693-7 CAS no: 1344-37-2	Carcinogenic (category 1B) Toxic for reproduction (category 1A)	21 May 2015	-	-

Entry no	Substance	Intrinsic properties underlying the prohibition	Transitional period	Exempted (categories of) uses	Review periods
12.	Lead chromate molybdate sulfate red (C.I. Pigment Red 104) EC no: 235-759-9 CAS no: 12656-85-8	Carcinogenic (category 1B) Toxic for reproduction (category 1A)	21 May 2015		
13.	Tris(2-chloroethyl) phosphate (TCEP) EC no: 204-118-5 CAS no: 115-96-8	Toxic for reproduction (category 1B)	21 August 2015		
14.	2,4-Dinitrotoluene (2,4-DNT) EC no: 204-450-0 CAS no: 121-14-2	Carcinogenic (category 1B)	21 August 2015		
15.	Trichlorethylene EC no: 201-167-4 CAS no: 79-01-6	Carcinogenic (category 1B)	1. December 2019	–	–
16.	Chromium trioxide EC no: 215-607-8 CAS no: 1333-82-0	Carcinogenic (category 1A) Mutagenic category 1B)	1 June 2021	Uses in processes in which the end products do not contain chromium in hexavalent form	–
17.	Acids formed from chromium trioxide, and their oligomers Group with: Chromic acid EC no: 231-801-5 CAS no: 7738-94-5 Dichromic acid EC no: 236-881-5 CAS no: 13530-68-2 Oligomers of chromic acid and dichromic acid EC no: not yet assigned CAS no: not yet assigned	Carcinogenic (category 1B)	1 June 2021	Uses in processes in which the end products do not contain chromium in hexavalent form	–

Entry no	Substance	Intrinsic properties underlying the prohibition	Transitional period	Exempted (categories of) uses	Review periods
18.	Sodium dichromate EC no: 234-190-3 CAS no: 7789-12-0 10588-01-9	Carcinogenic (category 1B) Mutagenic (category 1B) Toxic for reproduction (category 1B)	1 June 2021	Uses in processes in which the end products do not contain chromium in hexavalent form	–
19.	Potassium dichromate EC no: 231-906-6 CAS no: 7778-50-9	Carcinogenic (category 1B) Mutagenic (category 1B) Toxic for reproduction (category 1B)	1 June 2021	–	–
20.	Ammonium dichromate EC no: 232-143-1 CAS no: 7789-09-5	Carcinogenic (category 1B) Mutagenic (category 1B) Toxic for reproduction (category 1B)	1 June 2021	–	–
21.	Potassium chromate EC no: 232-140-5 CAS no: 7789-00-6	Carcinogenic (category 1B) Mutagenic (category 1B)	1 June 2021	–	–
22.	Sodium chromate EC no: 231-889-5 CAS no: 7775-11-3	Carcinogenic (category 1B) Mutagenic (category 1B) Toxic for reproduction (category 1B)	1 June 2021	–	–
23.	Formaldehyde, oligomer reaction products with aniline (Technical MDA) EC no: 500-036-1 CAS no: 25214-70-4	Carcinogenic (category 1B)	1 November 2021	–	–

Entry no	Substance	Intrinsic properties underlying the prohibition	Transitional period	Exempted (categories of) uses	Review periods
24.	Arsenic acid EC no: 231-901-9 CAS no: 7778-39-4	Carcinogenic (category 1A)	1 November 2021	–	
25.	Di(2-methoxyethyl) ether (Diglyme) EC no: 203-924-4 CAS no: 111-96-6	Toxic for reproduction (category 1B)	1 November 2021	–	
26.	1,2-Dichlorethane (EDC) EC no: 203-458-1 CAS no: 107-06-2	Carcinogenic (category 1B)	1 February 2022	–	
27.	2,2'-Dichloro-4,4'-methylenedianiline (MOCA) EC no: 202-918-9 CAS no: 101-14-4	Carcinogenic (category 1B)	1 February 2022	–	
28.	Dichromium tris(chromate) EC no: 246-356-2 CAS no: 24613-89-6	Carcinogenic (category 1B)	1 April 2023	–	
29.	Strontium chromate EC no: 232-142-6 CAS no: 7789-06-2	Carcinogenic (category 1B)	1 April 2023	–	
30.	Zinc potassium chromate EC no: 234-329-8 CAS no: 11103-86-9	Carcinogenic (category 1A)	1 April 2023	–	
31.	Pentazinc chromate octahydroxide EC no: 256-418-0 CAS no: 49663-84-5	Carcinogenic (category 1A)	1 April 2023	–	

<sup>1bis</sup> For substances in entry numbers 4–7, 10–12, 14 and 15, a transitional period also applies until 1 May 2021 for the following uses:

- manufacture of a replacement part in order to repair a product where the substance concerned is or was used in the manufacture of the product and the product will not function properly without this replacement part;
- repair of a product where the substance concerned is or was used in the manufacture of the product and the product can only be repaired by using the substance concerned.

<sup>2</sup> The FOEN, with the agreement of the FOPH and SECO, shall adapt the provisions specified in paragraph 1, taking into account any amendments to Annex XIV to Regulation (EC) No 1907/2006<sup>98</sup> and the entries in Annex 3 ChemO.

<sup>98</sup> See footnote to the title of this Annex.

## Provisions relating to groups of preparations and articles

Annex 2.1<sup>99</sup>  
(Art. 3)

### Laundry detergents

#### 1 Definition

<sup>1</sup> *Laundry detergents* are textile washing products and textile auxiliary washing products which are released into wastewater. In particular, they include:

- a. prewash and heavy-duty detergents;
- b. detergents for delicate fabrics and special detergents;
- c. water softeners;
- d. pretreatment products;
- e. bleaching agents, decolourants;
- f. fabric softeners.

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

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

#### 2 Prohibitions

<sup>1</sup> It is prohibited to produce for personal use or place on the market laundry detergents containing:

- a. liquid halogenated organic compounds such as dichloromethane (CAS no 75-09-2), trichloroethylene (CAS no 79-01-6) and tetrachloroethylene (CAS no 127-18-4);
- b. phosphates;
- c. more than 0.5% by mass of ethylenediaminetetraacetic acid (EDTA; CAS no 60-00-4) or propylenediaminetetraacetic acid (PDTA; CAS no 1939-36-2), or their salts or compounds derived therefrom;

<sup>99</sup> Revised by No I 3 of the O of 15 Dec. 2006 (AS 2007 111), No I of the O of 13 Feb. 2008 (AS 2008 561), Annex No 2 of the O of 14 Jan. 2009 (AS 2009 401) and No II para. 2 of the O of 1 July 2015, in force since 1 Sept. 2015 (AS 2015 2367).

- d. more than 0.5% phosphorus by mass;
- 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 biodegradability is less than 60% (mineralisation) or 70% (dissolved organic carbon die-away);
- h. surfactants listed in Annex VI to Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004<sup>100</sup> on detergents:

Name (IUPAC <sup>101</sup> nomenclature)	EINECS or ELINCS no	CAS no	Limitations
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<sup>2</sup> The FOEN shall amend the provisions of paragraph 1 letter h to comply with amendments to Regulation (EC) No 648/2004.

<sup>3</sup> The test and analytical methods are based on Annexes II, III and VIII to Regulation (EC) No 648/2004.

### 3 Special labelling

<sup>1</sup> In the case of laundry detergents, the following ingredients shall be listed if the content is more than 0.2% by mass:

- a. phosphonates;
- b. anionic surfactants;
- c. non-ionic surfactants;
- d. cationic surfactants;
- e. amphoteric surfactants;
- f. oxygen-based bleaching agents;
- g. chlorine-based bleaching agents;
- h. aromatic hydrocarbons;
- i. aliphatic hydrocarbons;
- j. EDTA (CAS no 60-00-4) and its salts;

<sup>100</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>101</sup> International Union of Pure and Applied Chemistry.

- k. nitrilotriacetic acid (NTA, CAS no 139-13-9) and its salts;
- l. soap;
- m. zeolites;
- n. polycarboxylates.

<sup>2</sup> The content of ingredients specified in paragraph 1 shall be indicated using one of the following mass percentage ranges:

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

<sup>3</sup> The following classes of ingredient shall be listed as such irrespective of their concentration and with no indication of the content by mass:

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

<sup>3bis</sup> If an INCI designation<sup>102</sup> exists, preservation agents are to be indicated accordingly.

<sup>4</sup> If added, as such, at concentrations exceeding 0.01 by weight, allergenic fragrances that are included in the list of substances in Annex III to Regulation (EC) No 1223/2009<sup>103</sup> in column a with the reference numbers 45, 67, or 69 to 92 shall be listed using the nomenclature of that Regulation.

<sup>4bis</sup> In the case of laundry detergents, the product name must be indicated as well as the manufacturer's name, address and telephone number. If the laundry detergent is imported from an EEA Member State, the name address and telephone number of the party responsible for the first placing of the product on the market in the EEA may be indicated. This does not apply to imports of dangerous laundry detergents within the meaning of Article 3 of the Chemicals Ordinance of 5 June 2015<sup>104</sup> (ChemO) which are intended for supply to the general public.

<sup>5</sup> Also to be indicated in the case of laundry detergents are the address, e-mail address (where available) and telephone number from which the ingredient data sheet specified in Number 5 can be obtained.

<sup>102</sup> International Nomenclature of Cosmetic Ingredients.

<sup>103</sup> Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, OJ L 342, 22.12.2009, p. 59; last amended by Regulation (EU) No 358/2014, OJ L 107, 10.4.2014, p. 5.

<sup>104</sup> SR **813.11**

<sup>6</sup> The information must appear on the packaging. If the laundry detergent is supplied for professional or commercial use, the information may be provided 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 expressed in SI units (millilitres, grams).

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

#### **5 Ingredient data sheet**

<sup>1</sup> On request, manufacturers placing laundry detergents on the market shall make an ingredient data sheet available to the Notification Authority (Art. 77 ChemO) or to the cantonal authority responsible for enforcement in accordance with Article 13.

<sup>2</sup> On request, manufacturers must also make the ingredient data sheet available for medical purposes, immediately and free of charge, to physicians and to ancillary staff who are bound by professional confidentiality.

<sup>3</sup> Physicians and ancillary staff as specified in paragraph 2 must treat the data made available to them as confidential and use it solely for medical purposes.

<sup>4</sup> The ingredient data sheet must include the following information:

- a. name of the laundry detergent;
- b. name of the manufacturer or the person responsible for placing the product on the market in the EEA in accordance with Article 2 point 10 of Regulation (EC) No 648/2004;
- c. all the ingredients, in order of decreasing abundance by mass, divided into the following mass percentage ranges:
  - 10% or more,
  - 1% or over, but less than 10%,
  - 0.1% or over, but less than 1%,
  - less than 0.1%;
- d. for each ingredient, the common chemical name or IUPAC name, the CAS number and, where available, the INCI<sup>105</sup> name and the Swiss or European Pharmacopoeia name shall be given. Impurities are not considered to be ingredients.

<sup>105</sup> International Nomenclature of Cosmetic Ingredients.

## 6 Exemptions

<sup>1</sup> The requirements specified in Numbers 2–5 do not apply to the import of laundry detergents which are only finished or repackaged in Switzerland and then re-exported in their entirety.

<sup>2</sup> Number 2 paragraph 1 letters e–h does not apply to surfactants which are active ingredients of disinfectants approved under the OBP<sup>106</sup>. In addition, Numbers 4 and 5 do not apply to such disinfectants.

<sup>3</sup> The prohibition specified in Number 2 paragraph 1 letter g does not apply to the following surfactants listed in Annex V to Regulation (EC) No 648/2004:

Name (IUPAC nomenclature)	EINECS or ELINCS no	CAS no	Limitations
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<sup>4</sup> The FOEN shall amend the provisions of paragraph 3 to comply with amendments to Regulation (EC) No 648/2004.

<sup>5</sup> On receipt of a justified request, it may grant further exemptions to the prohibition specified in Number 2 paragraph 1 letter g for surfactants not listed in Annex V or VI to Regulation (EC) No 648/2004, provided that they are used in laundry detergents employed exclusively outside the domestic sphere. Here, it shall take into account the criteria laid down in Annex IV to Regulation (EC) No 648/2004.

## 7 Transitional provisions

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

- the prohibitions specified in Number 2 paragraph 1 letters f, g and h;
- the special labelling requirements specified in Number 3 paragraph 3 letters d and e and paragraph 4;
- the provisions on the data sheet specified in Number 5.

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

<sup>3</sup> From 8 October 2007, laundry detergents as specified in paragraph 2 may only be produced for personal use or placed on the market if:

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

<sup>106</sup> SR 813.12

- 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 approval of an exemption.

*Annex 2.2<sup>107</sup>*  
(Art. 3)

## Cleaning and deodorising products

### 1 Definition

<sup>1</sup> *Cleaning products* are preparations used in cleaning which are released into wastewater. In particular, they include:

- a. machine dishwashing detergents;
- b. hand dishwashing detergents;
- c. general-purpose cleaners;
- d. rinse aids;
- e. scouring agents;
- f. lavatory cleaners;
- g. car shampoos;
- h. metal cleaners;
- i. engine cleaners;
- j. cleaning products for the food and drinks industry and for washing bottles and containers;
- k. car wash cleaning products;
- l. carpet cleaners;
- m. degreasing agents;
- n. rust removers.

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

### 2 Prohibitions

<sup>1</sup> It is prohibited to produce for personal use or place on the market cleaning products containing:

<sup>107</sup> Revised by No I 3 of the O of 15 Dec. 2006 (AS 2007 111), No I of the O of 13 Feb. 2008 (AS 2008 561), Annex No 2 of the O of 14 Jan. 2009 (AS 2009 401), No I of the FOEN Ordinance of 19 Oct. 2009 (AS 2009 5429), No I 6 of the O of 10 Dec. 2010 (AS 2011 113), No II para. 3 of the O of 7 Nov. 2012 (AS 2012 6161) and No II para. 2 of the O of 1 July 2015, in force since 1 Sept. 2016 (AS 2015 2367). The correction of 20 June 2017 relates only to the French and Italian texts (AS 2017 3541).

- a. liquid halogenated organic 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 mass of ethylenediaminetetraacetic acid (EDTA; CAS no 60-00-4) or propylenediaminetetraacetic acid (PDTA; CAS no 1939-36-2), or their salts or compounds derived therefrom;
- 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 biodegradability is less than 60% (mineralisation) or 70% (dissolved organic carbon die-away);
- f. surfactants listed in Annex VI to Regulation (EC) 648/2004 of the European Parliament and of the Council of 31 March 2004<sup>108</sup> on detergents:

Name (IUPAC <sup>109</sup> nomenclature)	EINECS or ELINCS no	CAS no	Limitations
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<sup>1bis</sup> It is prohibited to place on the market household machine dishwashing detergents which have a total phosphorus content of 0.3 g or more in the standard dosage as defined in Number 4 paragraph 1.

<sup>2</sup> The FOEN shall amend the provisions of paragraph 1 letter f to comply with the amendments to Regulation (EC) 648/2004.

<sup>3</sup> The test and analytical methods are based on Annexes II, III and VIII to Regulation (EC) 648/2004.

<sup>4</sup> Deodorising products and air fresheners intended for use in toilets, private homes, offices or other publicly accessible interior spaces, may not be placed on the market, if their content of 1,4-Dichlorobenzene (CAS No 106-46-7) is 1 per cent or more by mass.

<sup>5</sup> The use of 1,4-Dichlorobenzene for purposes set out in paragraph 4 is prohibited.

<sup>108</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>109</sup> International Union of Pure and Applied Chemistry.

### 3 Special labelling

<sup>1</sup> In the case of cleaning products, the following ingredients shall be listed if the content is more than 0.2% by mass:

- a. phosphates;
- 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 ingredients specified in paragraph 1 shall be indicated using one of the following mass percentage ranges:

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

<sup>3</sup> The following classes of ingredient shall be listed as such irrespective of their concentration and with no indication of the content by mass:

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

<sup>3bis</sup> If an INCI designation<sup>110</sup> exists, preservation agents are to be indicated accordingly.

<sup>110</sup> International Nomenclature of Cosmetic Ingredients.

<sup>4</sup> If added, as such, at concentrations exceeding 0.01 by weight, allergenic fragrances that are included in the list of substances in Annex III of Regulation (EC) No 1223/2009<sup>111</sup> in column a with the reference numbers 45, 67, or 69 to 92 shall be listed using the nomenclature of that Regulation.

<sup>4bis</sup> In the case of cleaning, the product name must be indicated as well as the manufacturer's name, address and telephone number. If the cleaning product is imported from an EEA Member State, the name address and telephone number of the party responsible for first placing the product on the market in the EEA may be indicated. This does not apply to imports of dangerous cleaning products within the meaning of Article 3 of the Chemicals Ordinance of 5 June 2015<sup>112</sup> (ChemO), which are intended for supply to the general public.

<sup>5</sup> Also to be indicated in the case of cleaning products are the address, e-mail address (where available) and telephone number from which the ingredient data sheet specified in Number 5 can be obtained.

<sup>6</sup> The information must appear on the packaging. If the cleaning product is supplied for professional or commercial use, the information may be provided 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 household machine dishwashing detergents, the standard dosage must be indicated in grams or millilitres or the number of tablets required for the main washing cycle for normally soiled tableware in a fully loaded 12 place settings dishwasher; if the dosage varies according to water hardness, additional information must be provided to indicate the dosage for the total hardness levels soft, medium and hard.

<sup>2</sup> The information specified in paragraph 1 must appear on the packaging in at least one official language, be clearly legible and indelible.

#### **5 Ingredient data sheet**

<sup>1</sup> On request, manufacturers placing cleaning products on the market shall make an ingredient data sheet available to the Notification Authority (Art. 77 ChemO) or to the cantonal authority responsible for enforcement in accordance with Article 13.

<sup>2</sup> On request, manufacturers must also make the ingredient data sheet available for medical purposes, immediately and free of charge, to physicians and to ancillary staff who are bound by professional confidentiality.

<sup>111</sup> Regulation (EC) No 1223/2009 of the European Council and of the Council of 30 November 2009 on cosmetic products, OJ L 342, 22.12.2009, p. 59; last amended by Regulation (EU) No 358/2014, OJ L 107, 10.4.2014, p. 5.

<sup>112</sup> SR 813.11

<sup>3</sup> Physicians and ancillary staff as specified in paragraph 2 must treat the data made available to them as confidential and use it solely for medical purposes.

<sup>4</sup> The ingredient data sheet must include the following information:

- a. name of the cleaning product;
- b. name of the manufacturer or the person responsible for placing the product on the market in the EEA in accordance with Article 2 point 10 of Regulation (EC) No 648/2004;
- c. all the ingredients, in order of decreasing abundance by mass, divided into the following mass percentage ranges:
  - 10% or more,
  - 1% or over, but less than 10%,
  - 0.1% or over, but less than 1%,
  - less than 0.1%;
- d. for each ingredient, the common chemical name or IUPAC name, the CAS number and, where available, the INCI <sup>113</sup> name and the Swiss or European Pharmacopoeia name shall be given. Impurities are not considered to be ingredients.

## 6 Exemptions

<sup>1</sup> The requirements specified in Numbers 2–5 do not apply to the import of cleaning products which are only finished or repackaged in Switzerland and then re-exported in their entirety.

<sup>2</sup> On receipt of a justified request, the FOEN may grant exemptions to the prohibitions specified in Number 2 paragraph 1 letter a if:

- a. in the current state of the art, no substitute is available; and
- b. the quantity of the substances used is no greater than is required for the intended purpose.

<sup>3</sup> Number 2 paragraph 1 letters c–f do not apply to surfactants which are active ingredients of disinfectants that are approved under the OBP<sup>114</sup> or comply with the requirements of the Medical Devices Ordinance of 17 October 2001<sup>115</sup>. In addition, Numbers 4 and 5 are not applicable to such disinfectants.

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

<sup>113</sup> International Nomenclature of Cosmetic Ingredients.

<sup>114</sup> SR 813.12

<sup>115</sup> SR 812.213

Name (IUPAC nomenclature)	EINECS or ELINCS no	CAS no	Limitations
Alcohols, Guerbet, C16–20, ethoxylated, n-butyl ether (7-8EO)	None (polymer)	147993-59-7	Can be used for the following industrial applications until 27 June 2019: <ul style="list-style-type: none"> <li>– bottle washing</li> <li>– cleaning-in-place</li> <li>– metal cleaning</li> </ul>

<sup>5</sup> The FOEN shall amend the provisions of paragraph 4 to comply with amendments to Regulation (EC) 648/2004.

<sup>6</sup> On receipt of a justified request, it may grant further exemptions to the prohibition specified in Number 2 paragraph 1 letter e for surfactants not listed in Annex V or VI to Regulation (EC) No 648/2004. Here, it shall take account of the criteria laid down in Annex IV to Regulation (EC) 648/2004.

## 7 Transitional provisions

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

- a. the prohibitions specified in Number 2 paragraph 1 letters d–f;
- b. the special labelling requirements specified in Number 3 paragraph 3 letter d and paragraph 4;
- c. the provisions on the data sheet specified in Number 5.

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

<sup>3</sup> From 8 October 2007, cleaning products as specified in paragraph 2 may only be produced for personal use or placed on the market if:

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

<sup>5</sup> The prohibition specified in Number 2 paragraph 1<sup>bis</sup> and the requirements specified in Number 4 paragraph 1 do not apply to household machine dishwashing detergents first placed on the market before 1 January 2017.

<sup>6</sup> In the case of household machine dishwashing detergents placed on the market in accordance with paragraph 5, the dosage indicated for the detergent in the instruc-

tions for use must be such that, if complied with, the quantity of phosphorus used per washing cycle does not exceed 2.5g.

## Solvents

### 1 Glycol ethers

#### 1.1 Prohibitions

It is prohibited to place on the market:

- a. preparations containing 2-(2-methoxyethoxy)ethanol (DEGME, CAS no 111-77-3) in a concentration of 0.1% or more by mass which are intended for supply to the general public for use as:
  1. paints and varnishes,
  2. paint strippers,
  3. cleaning agents,
  4. self-shining emulsions,
  5. floor sealants;
- b. spray paints and spray cleaners in aerosol dispensers containing 2-(2-butoxyethoxy)ethanol (DEGBE, CAS no 112-34-5) in a concentration of 3% or more by mass which are intended for supply to the general public.

#### 1.2 Special labelling

<sup>1</sup> Paints, other than spray paints, containing DEGBE in a concentration of 3% or more by mass and intended for supply to the general public must be labelled as follows: «Do not use in paint spraying equipment».

<sup>2</sup> The labelling specified in paragraph 1 must appear in at least two official languages and be visible, clearly legible and indelible.

### 2 Cyclohexane

#### 2.1 Special labelling

<sup>1</sup> Neoprene-based contact adhesives containing cyclohexane (CAS no 110-82-7) in a concentration of 0.1% or more by mass and intended for supply to the general public must be labelled as follows: «This product is not to be used under conditions of poor ventilation. – This product is not to be used for carpet laying».

<sup>2</sup> The labelling specified in paragraph 1 must appear in at least two official languages and be visible, clearly legible and indelible.

<sup>116</sup> Amended by No II 2 of the O of 7 Nov. 2012, in force since 1 Dec. 2012, No 1.1 and 3.1 para. 1 let. a since 1 June 2013, No 1.2 and 2 since 1 Dec. 2013, No 3.1 para. 1 let. b, para. 2 and No 3.2 since 1 Dec. 2014 (AS 2012 6161).

## 2.2 Special packaging

Neoprene-based contact adhesives containing cyclohexane (CAS no 110-82-7) in a concentration of 0.1% or more by mass and intended for supply to the general public must be packaged in containers not exceeding 350 g.

## 3 Dichlormethan

### 3.1 Prohibitions

<sup>1</sup> It is prohibited to place on the market paint strippers containing dichloromethane (CAS no 75-09-2) in a concentration of 0.1% or more by mass which:

- a. are intended for supply to the general public;
- b. are intended for professional or commercial use outside an industrial installation.

<sup>2</sup> It is prohibited to use paint strippers containing dichloromethane in a concentration of 0.1% or more by mass for professional or commercial purposes outside an industrial installation.

### 3.2 Special labelling

<sup>1</sup> Paint strippers containing dichloromethane in a concentration of 0.1% or more by mass must be labelled as follows: «Restricted to industrial use and to professionals approved in certain EU Member States – verify where use is allowed».

<sup>2</sup> Notwithstanding paragraph 1, paint strippers intended for use in Switzerland may be labelled as follows: «Restricted to industrial use».

<sup>3</sup> The labelling specified in paragraphs 1 and 2 must appear in at least two official languages and be visible, clearly legible and indelible.

## 4 Substances that deplete the ozone layer and substances stable in the atmosphere

### 4.1 Prohibitions

It is prohibited:

- a. to manufacture, place on the market, import on a private basis or use substances that deplete the ozone layer (Annex 1.4) or substances stable in the atmosphere (Annex 1.5), or preparations containing such substances, for purposes of cleaning, dissolution, emulsification or suspension;
- b. to manufacture, place on the market, or import on a private basis articles which contain substances that deplete the ozone layer (Annex 1.4) or substances stable in the atmosphere (Annex 1.5) for purposes of cleaning, dissolution, emulsification or suspension.

## 4.2 Exemptions

<sup>1</sup> The prohibition specified in Number 4.1 letter a does not apply to substances stable in the atmosphere, or preparations containing such substances, which are used in surface treatment installations as specified in Annex 2 Number 87 of the Air Pollution Control Ordinance of 16 December 1985<sup>117</sup>.

<sup>2</sup> On receipt of a justified request, the FOEN may grant temporary exemptions to the prohibitions specified in Number 4.1 for further uses if:

- a. in the current state of the art, no substitute is available for the substances stable in the atmosphere, or for the preparations and articles containing such substances;
- b. the quantity and the global warming potential of the substances stable in the atmosphere being used are no greater than is required for the intended purpose in the current state of the art; and
- c. emissions of substances stable in the atmosphere are kept as low as possible throughout the life cycle of the intended use.

## 4.3 Special labelling

<sup>1</sup> Containers with substances stable in the atmosphere which are listed in Annex A to the Kyoto Protocol must be labelled with the following information:

- a. the text: «Contains fluorinated greenhouse gases covered by the Kyoto Protocol»;
- b. the abbreviated chemical names for the substances stable in the atmosphere contained in the containers, using the industry nomenclature accepted for the area concerned;
- c. the quantity of the substances stable in the atmosphere, expressed in kilograms.

<sup>2</sup> The labelling specified in paragraph 1 must appear in at least two official languages and be visible, clearly legible and indelible.

## 5 Halogenated solvent wastes handling

### 5.1 Definitions

*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);

<sup>117</sup> SR 814.318.142.1

- d. chloroform (CAS no 67-66-3);
- e. trichloroethylene (CAS no 79-01-6);
- f. tetrachloroethylene (CAS no 127-18-4);
- g. substances that deplete the ozone layer (Annex 1.4);
- h. substances stable in the atmosphere (Annex 1.5).

## 5.2 Prohibition of mixing

<sup>1</sup> It is prohibited for any person using halogenated solvents on a professional or commercial basis to mix wastes from these solvents:

- a. with non-halogenated solvents or wastes from non-halogenated solvents;
- b. with other types of halogenated solvents or of wastes from halogenated solvents, if recycling is significantly complicated as a result;
- c. with other wastes, substances, preparations or articles.

<sup>2</sup> The prohibition specified in paragraph 1 letter b does not apply to persons who do not use more than 20 litres per year of a substance specified in Number 5.1.

<sup>3</sup> The prohibitions specified in paragraph 1 do not apply to persons who recycle or incinerate halogenated solvent wastes themselves in an appropriate manner.

## 5.3 Take-back obligation

Any person who supplies a user with halogenated solvents in containers of more than 20 litres must, if the user so requires, take back these solvents, including process-related impurities or additives, or arrange for them to be taken back by a third party.

## 5.4 Recycling

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

- a. to investigate whether recycling options are available or could be created;
- b. to inform the canton of the results of their investigations;
- c. to ensure that these wastes are recycled if this is technically feasible and economically acceptable and does not entail disproportionate use of energy.

*Annex 2.4*<sup>118</sup>  
(Art. 3)

## Biocidal products

### 1 Wood preservatives

#### 1.1 Definitions

<sup>1</sup> *Wood preservatives* are biocidal products of product type 8 as defined in Annex 10 to the OBP<sup>119</sup>.

<sup>2</sup> *Tar oils* refers in particular to:

- a. creosote (CAS no 8001-58-9);
- b. creosote oil (CAS no 61789-28-4);
- c. distillates (coal tar), naphthalene oils (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 tar oil, alkaline; extract residues (coal) (CAS no 122384-78-5).

#### 1.2 Prohibitions

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

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

<sup>2</sup> It is prohibited to supply or use wood treated with wood preservatives containing tar oil.

<sup>3</sup> Wood treated with a wood preservative and articles containing such wood may only be imported for professional or commercial purposes if each active substance contained in the wood preservative is listed, for inclusion in product type 8:

- a. in the list of notified active substances specified in Article 9 paragraph 1 letter d, in conjunction with paragraph 2 letter b and paragraph 3 OBP; or
- b. in Annex 1 List I or Annex 2 List IA OBP and complies with the requirements specified therein.

<sup>118</sup> Revised by No I 6 of the O of 10 Dec. 2010 (AS 2011 113), No II para. 3 of the O of 7 Nov. 2012 (AS 2012 6161), No II para. 2 of the O of 1 July 2015 (AS 2015 2367) and Annex No 2 of the O of 4 Nov. 2015, in force since 1. Jan. 2016 (AS 2015 4791).

<sup>119</sup> SR 813.12

### 1.3 Exemptions

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

- a. contain the smallest quantity of water extractable phenols or benzo[a]pyrene possible according to the current state of the art, but no more than:
  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 specified in Number 1.2 paragraph 2 does not apply to railway sleepers supplied by one rail company to another for use in railway track installations.

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

- a. has been treated with wood preservatives as specified in paragraph 1; and
- b. is used for:
  1. railway track installations,
  2. slope stabilisation and avalanche protection structures away from residential areas,
  3. noise barriers away from residential areas,
  4. path and road surfacing away from residential areas,
  5. bases of electricity and telecommunication pylons,
  6. other installations serving purposes comparable to those listed in Numbers 1–5 and constructed away from residential areas; after consulting the Federal Offices concerned, the FOEN shall issue recommendations for the enforcement authorities.

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

<sup>5</sup> The Notification Authority (Art. 77 of the Chemicals Ordinance of 5 June 2015<sup>120</sup>) may grant exceptions from the prohibition specified in Number 1.2 paragraph 3. It shall make its decision with the agreement of the competent assessment authorities specified in Article 52 OBP.

### 1.4 Use in groundwater protection zones

<sup>1</sup> In groundwater protection zones S1, S2 and S<sub>h</sub> it is prohibited:

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

<sup>120</sup> SR 813.11

<sup>2</sup> Any person wishing to use wood preservatives or store wood treated with these products in groundwater protection zones S3 and S<sub>m</sub> or near waterbodies must take structural measures to prevent seepage or run-off of the preservatives.

## **2 Other preservatives**

### **2.1 Definitions**

*Preservatives* also refers to:

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

### **2.2 Prohibitions**

<sup>1</sup> It is prohibited to place on the market or use, in paints or varnishes or for service water, preservatives containing arsenic or arsenic compounds.

<sup>2</sup> For preservatives containing trialkyl or triaryl tin compounds in paints or varnishes or for service water, the provisions specified in Annex 1.14 apply.

<sup>3</sup> It is prohibited to manufacture or place on the market articles or any parts thereof containing dimethylfumarate (CAS no 624-49-7) in concentrations greater than 0.1mg/kg.

## **3 Rodenticides**

### **3.1 Definition**

*Rodenticides* are biocidal products of product type 14 as defined in Annex 10 to the OBP.

### **3.2 Prohibition**

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

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

## **4 Antifouling products (underwater coatings)**

### **4.1 Definition**

*Antifouling products* are biocidal products of product type 21 as defined in Annex 10 to the OBP.

### **4.2 Prohibitions**

<sup>1</sup> It is prohibited to place on the market or use antifouling products containing arsenic compounds.

<sup>2</sup> For antifouling products containing trialkyl or triaryl tin compounds, the provisions specified in Annex 1.14 apply.

## **5 Bring-back obligation**

<sup>1</sup> Users must return biocidal products for which they have no further use or which they wish to dispose of to a person obliged to take them back or deposit them at an appropriate collection centre.

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

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

The prohibitions specified in this Annex do not apply to the placing on the market of biocidal products for research and development purposes.

## **7 Transitional provision**

<sup>1</sup> The prohibition on use specified in Number 1.2 paragraph 2 does not apply to wood supplied by 31 December 2001 and used by 31 December 2011.

<sup>2</sup> Wood treated with wood preservatives that do not meet the requirements specified in Number 1.3 paragraph 1 letter a may be used for the applications specified in Number 1.3 paragraph 3 letter b if it was supplied by 30 June 2005 and is used by 31 December 2011.

## Plant protection products

### 1 Use

#### 1.1 Prohibitions and restrictions

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

- a. in areas designated as nature reserves under federal or cantonal legislation, in the absence of provisions to the contrary in the relevant regulations;
- b. in reed beds and mires;
- c. in hedges and groves and in a 3 m wide strip alongside hedges and groves;
- d. in forests and in a 3 m wide strip alongside the stand of trees;
- e. in surface waters and in a 3 m wide strip alongside surface waters, whereby the strip alongside watercourses for which a space for waters has been specified in accordance with Article 41a WPO<sup>122</sup> or for which a space for waters has been expressly dispensed with under 41a paragraph 5 WPO is measured from the shore line, and in the case of other watercourses and standing waters from the top edge of the bank in accordance with the buffer strip information sheet «Measuring and managing buffers strips correctly», KIP/PIOCH 2009<sup>123</sup>;
- f. in groundwater protection zone S1;
- g. on or alongside railway track installations in groundwater protection zones S2 and S<sub>h</sub>.

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

- a. on roofs and terraces;
- b. on storage sites;
- c. on or alongside roads, paths and squares;
- d. on embankments and verges alongside roads and railways.

<sup>3</sup> The use of plant protection products in groundwater protection zones S2 and S<sub>h</sub> is governed by the Ordinance of 12 May 2010<sup>124</sup> on Plant Protection Products.

<sup>4</sup> With regard to the use of plant protection products in the areas of contribution Z<sub>u</sub> and Z<sub>o</sub>, the cantons, taking account of the exemptions specified in Number 1.2 paragraphs 2, 4 and 5, shall specify restrictions going beyond those listed in para-

<sup>121</sup> Revised by No I 1 of the O of 29 June 2011 (AS 2011 3379), No II para. 3 of the O of 7 Nov. 2012 (AS 2012 6161), Annex 9 No 1 of the Direct Payments Ordinance of 23 Oct. 2013 (AS 2013 4145) and Annex No 2 of the O of 4 Nov. 2015, in force since 1 Jan. 2016 (AS 2015 4791).

<sup>122</sup> SR 814.201

<sup>123</sup> The information sheet may be obtained (not in English) from Agridea, 8315 Lindau.

<sup>124</sup> SR 916.161

graphs 1 and 2 if this is necessary to ensure water protection. In particular, they shall restrict the use of a plant protection product in the area of contribution  $Z_u$  if the product is detected at a drinking water well and the requirements for groundwater which is used or intended for use are repeatedly not met.

<sup>5</sup> With regard to the use of plant protection products on or alongside railway track installations outside groundwater protection zones S1, S2 and S<sub>h</sub>, the Federal Office of Transport shall specify the restrictions and prohibitions required to ensure protection of the environment. It shall take local conditions into account and consult the cantons concerned before making its decision.

## 1.2 Exemptions

<sup>1</sup> The prohibitions specified in Number 1.1 paragraph 1 letters a and b do not apply to the use of plant protection products intended to preserve crops in closed installations or buildings, provided that measures are taken to prevent run-off and seepage of the products or their degradation products.

<sup>2</sup> The prohibitions specified in Number 1.1 paragraph 1 letters c and d, provided letter d concerns wooded pastures or the 3-metre-wide strip along the wooded area, do not apply to the individual treatment of problem plants, provided these plants could not be controlled effectively with other measures such as mowing.

<sup>3</sup> In forests, if plant protection products cannot be replaced by measures less harmful to the environment, notwithstanding the prohibition specified in Number 1.1 paragraph 1 letter d, the competent cantonal authority shall, in accordance with Articles 4–6, grant an authorisation for the use of plant protection products:

- a. to treat wood which could cause damage to a forest following natural disasters and to control the harmful pathogens, if this is required to preserve the forest;
- b. to treat cut wood with insecticides authorised under the Plant Protection Products Ordinance for the crop ‘Lying roundwood in forests and at storage sites’, at appropriate sites, provided that the wood cannot be removed in good time, the sites concerned are not located in groundwater protection zones S1, S2 or S<sub>h</sub> and effective measures are taken to prevent seepage or run-off of the products;
- c. in forest nurseries outside groundwater protection zones S1, S2, S3 and S<sub>h</sub>;
- d. to remedy browsing damage in areas of natural regeneration, afforestation or reforestation, if this is essential to preserve the forest.

<sup>3bis</sup> The Federal Office of Transport shall, in consultation with the FOEN and in derogation from the prohibition contained in Number 1.1 paragraph 1 letter g, grant authorisation for the use of plant protection products in groundwater zones S2 and S<sub>h</sub> if:

- a. the railway track installation lies in a water-tight cutting;
- b. the waste water generated is disposed of outside groundwater zones S2 or S<sub>h</sub>; and

- c. it would be disproportionate to replace the plant protection products with other measures that would have a lower impact on the environment is a disproportionate measure.

<sup>4</sup> The prohibition specified in Number 1.1 paragraph 2 letter c does not apply to individual treatments of problem plants on national and cantonal roads if they cannot be effectively controlled by other measures such as regular mowing.

<sup>5</sup> The prohibition specified in Number 1.1 paragraph 2 letter d does not apply to individual treatments of problem plants if they cannot be effectively controlled by other measures such as regular mowing.

## **2 Special labelling**

<sup>1</sup> For herbicides or plant growth control agents authorised in accordance with Article 15 letter a PSMV, licence holders must inform the purchasers, by means of labelling or in an equivalent written form, about the prohibitions specified in Number 1.1 paragraph 2.

<sup>2</sup> Any person who imports a herbicide or plant growth control agent included in the list specified in Article 36 paragraph 1 PSMV must inform the purchasers, by means of labelling or in an equivalent written form, about the prohibitions specified in Number 1.1 paragraph 2.

<sup>3</sup> The labelling specified in paragraph 1 and the information specified in paragraph 2 must include the following details: «Use is prohibited on roofs and terraces, on storage sites, on or alongside roads, paths and squares, and on embankments and verges alongside roads and railways». It must appear in at least two official languages and be visible, clearly legible and indelible.

## **3 Bring-back obligation**

<sup>1</sup> Users must return plant protection products for which they have no further use or which they wish to dispose of to a person obliged to take them back or deposit them at an appropriate collection centre.

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

*Annex 2.6*<sup>125</sup>  
(Art. 3)

## Fertilisers

### 1 Definitions

<sup>1</sup> The terms used in this Annex are defined in the Ordinance of 10 January 2001<sup>126</sup> on Fertilisers.

<sup>2</sup> *Forage areas* are meadows and pastures, and vegetated farmland producing crops used wholly or partly as fodder. The term does not apply to farmland where only the grain or cobs are harvested.

### 2 Special requirements for supply

#### 2.1 Supply of fertilisers

<sup>1</sup> Fertilisers may only be supplied if the requirements specified in Number 2.2 are met in addition to those specified in the Ordinance on Fertilisers.

<sup>2</sup> It is prohibited to supply sewage sludge.

#### 2.2 Quality requirements

##### 2.2.1 Organic fertilisers, recycling fertilisers with the exception of mineral recycling fertilisers and farm manure

<sup>1</sup> The pollutant content of organic fertilisers, recycling fertilisers with the exception of mineral recycling fertilisers, and farm manure must not exceed the following limit values:

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

<sup>125</sup> Revised by Annex of the O of 14 Nov. 2007 (AS **2007** 6295), Annex 9 No 1 of the Direct Payments Ordinance of 23 Oct. 2013 (AS **2013** 4145), Annexe No 2 of the O of 4 Nov. 2015 (AS **2015** 4791) and Annex 6 No 11 of the Waste Management Ordinance of 4 Dec. 2015 (AS **2015** 5699) and Annex No 2 of the O of 31 Oct. 2018, in force since 1 Jan. 2019 (AS **2018** 4205). The correction of 7 May 2019 relates to the French text only (AS **2019** 1339)

<sup>126</sup> SR **916.171**

- \* 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>2</sup> In addition, the following requirements for inert contaminants apply to compost and digestate:

- a. contaminants (metal, glass, wastepaper, cardboard, etc.) with a diameter of more than 2 mm must not exceed 0.5% of the mass of the dry matter;
- b. the content of aluminium foil and plastics must not exceed 0.1% of the mass of the dry matter;
- c. the content of stones with a diameter of more than 5 mm should be as low as possible, so that fertiliser quality is not impaired.

<sup>3</sup> The following guide values apply to compost and digestate:

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

<sup>1</sup> Sum of the following 16 PAH compounds on the EPA 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 toxic equivalents

<sup>4</sup> The provisions of paragraph 1 do not apply to farm manure intended for own-farm use or supplied directly to end users by a livestock farm. This is without prejudice to the provisions specified in Article 30a paragraph 2 of the Ordinance on Fertilisers.

## 2.2.2 Mineral fertilisers and fertilisers prepared from animal by-products

The pollutant content of mineral fertilisers and fertilisers prepared from animal by-products 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 fertilisers

The pollutant content of organic mineral fertilisers must not exceed the limit values specified in Number 2.2.1; however, if the proportion of phosphorus is more than 5%, the limit value for cadmium specified in Number 2.2.2 applies.

### 2.2.4 Mineral recycling fertilisers

<sup>1</sup> The inorganic pollutant content of mineral recycling fertilisers with recovered phosphorus may not exceed the following limit values:

Pollutant	Limit value in grams per tonne of phosphorus (P)
Lead (Pb)	500
Cadmium (Cd)	25
Copper (Cu)	3 000
Nickel (Ni)	500
Mercury (Hg)	2
Zinc (Zn)	10 000
Arsenic (As)	100
Chromium (Cr)	1 000

<sup>2</sup> The organic pollutant content of mineral recycling fertilisers with recovered phosphorus may not exceed the following limit values:

Pollutant	Limit value
Polycyclic aromatic hydrocarbons (PAH)	25 grams per tonne of phosphorus (P) <sup>1</sup>
Polychlorinated biphenyls (PCB)	0.5 grams per tonne of phosphorus (P) <sup>2</sup>
Dioxins (PCDD) and furans (PCDF)	120 nanograms I-TEQ per kilogram of phosphorus (P) <sup>3</sup>

<sup>1</sup> Sum of the following 16 PAH compounds on the EPA 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> Sum of the 7 congeners according to IRMM (Institute for Reference Materials and Measurements), IUPAC No 28, 52, 101, 118, 138, 153, 180

<sup>3</sup> I-TEQ = International toxic equivalents

<sup>3</sup> Mineral recycling fertilisers with recovered nitrogen or potassium may not exceed the limit values for recycling fertilisers under No 2.2.1.

### **3 Use**

#### **3.1 Principles**

<sup>1</sup> Any person who uses fertilisers must give due consideration to:

- a. the nutrients present in the soil and the nutrient requirements of plants (recommendations on fertiliser application);
- b. the site (vegetation, topography and soil conditions);
- c. meteorological conditions;
- d. limits ordered or agreed under legislation on water protection, nature and cultural heritage protection or environmental protection.

<sup>2</sup> Any person who has supplies of farm manure may only use recycling or mineral fertilisers if the farm manure is insufficient or not suitable for meeting the nutrient requirements of the plants concerned.

<sup>3</sup> Inputs of pollutants to agricultural soils must be avoided as far as possible.

#### **3.2 Restrictions**

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

<sup>1</sup> Use of nitrogenous fertilisers is only permitted during periods when plants can absorb nitrogen. If the particular crop production conditions require fertiliser treatment outside these periods, use of such fertilisers is only permitted if they pose no risk to water quality.

<sup>2</sup> Use of fluid fertilisers is only permitted if the soil has the necessary absorption capacity. In particular, they must not be used when the soil is waterlogged, frozen, snow-covered or dried-out.

##### **3.2.2 Compost and digestate**

<sup>1</sup> Over a three-year period, up to 25 tonnes of compost or solid digestate (based on dry matter) may be applied as fertiliser per hectare, or 200m<sup>3</sup> liquid digestate per hectare, provided that these quantities do not exceed the nitrogen and phosphorus requirements of the plants.

<sup>2</sup> It is prohibited to use, over a ten-year period, more than 100 tonnes of organic or organic mineral soil improvement agents, compost or solid digestate per hectare, either for soil improvement, as a substrate, for erosion protection, for recultivation purposes or for artificial topsoil mixtures.

##### **3.2.3 Residues from small wastewater treatment plants and from non-agricultural sealed cesspools**

<sup>1</sup> Residues from non-agricultural wastewater treatment plants with a maximum of 200 population equivalents and from non-agricultural sealed cesspools may be used

on forage areas in remote or poorly accessible locations outside the groundwater protection zones if an authorisation is granted by the cantonal authority.

<sup>2</sup> Without prejudice to the provisions of Number 3.3, they must not be used on vegetable plots or added to slurry pits.

### 3.3 Prohibitions and exemptions

#### 3.3.1 Prohibitions

<sup>1</sup> It is prohibited to use fertilisers:

- a. in areas designated as nature reserves under federal or cantonal legislation, in the absence of relevant regulations or agreements to the contrary;
- b. in reed beds and mires, where these are not already covered by provisions referred to in letter a;
- c. in hedges and copses and in a 3 m wide strip alongside hedges and copses;
- d. in surface waters and in a 3 m wide strip alongside surface waters, whereby the strip alongside watercourses for which a space for waters has been specified in accordance with Article 41a WPO<sup>127</sup> or for which a space for waters has been expressly dispensed with under 41a paragraph 5 WPO is measured from the shore line, and in the case of other watercourses and standing waters from the top edge of the bank in accordance with the buffer strip information sheet «Measuring and managing buffers strips correctly», KIP/PIOCH 2009<sup>128</sup>;
- e. in groundwater protection zone S1.

<sup>2</sup> It is prohibited to use liquid farm manure and recycling fertilisers in groundwater protection zones S2 and S<sub>h</sub>.

<sup>3</sup> With regard to the use of fertilisers in the areas of contribution  $Z_u$  and  $Z_o$ , the cantonal authority shall specify restrictions going beyond those listed in paragraphs 1 and 2 if this is necessary to ensure water protection.

<sup>4</sup> It is prohibited to use sewage sludge.

<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> Notwithstanding the prohibition specified in Number 3.3.1 paragraph 2, the cantonal authority may permit the spreading of a maximum of 20m<sup>3</sup> liquid farm manure and recycling fertilisers per hectare in groundwater protection zone S2 up to three times per growing season, at appropriate intervals, if the nature of the soil is such

<sup>127</sup> SR 814.201

<sup>128</sup> The information sheet may be obtained (not in English) from Agridea, 8315 Lindau.

that no pathogenic microorganisms can enter the groundwater well or recharge facility.

<sup>2</sup> Notwithstanding the prohibition specified in Number 3.3.1 paragraph 5 and without prejudice to Number 3.3.1 paragraphs 1–4, the application of fertilisers in forests and in a 3 m wide strip alongside the stand of trees outside groundwater protection zones may be authorised (Art. 4–6) for:

- a. the use of compost, solid digestate and mineral fertilisers:
  1. in forest nurseries,
  2. during afforestation or reforestation and for sowing,
  3. to promote the development of plant cover on forestry road verges and for bioengineering,
  4. on small areas within the framework of scientific trials;
- b. the spreading of farm manure, compost, solid digestate and non-nitrogenous mineral fertilisers on wooded pastures.

#### **4 Analyses carried out by the authorities**

<sup>1</sup> At appropriate intervals, the FOEN shall carry out analyses to determine the PAH, dioxin and furan content of compost and digestate. It shall publish a summary of the findings and communicate them in advance to the cantonal authority, the FOAG and the owners of the plants in question.

<sup>2</sup> The cantonal authorities shall identify the cause of any exceedance of the guide values specified in Number 2.2.1 paragraph 3 and ensure that compost and digestate are not supplied if their use could endanger soil fertility.

*Annex 2.71*<sup>129</sup>  
(Art. 3)

## De-icing products

### 1 Definition

*De-icing products* are substances and preparations used to combat ice and slippery snow and containing more than 10% of de-icing substances by mass.

### 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. biodegradable lower alcohols;
- d. sodium formate or potassium formate;
- e. sodium acetate or potassium acetate;
- f. molasses from sugar production and equivalent products from other processes that contain carbohydrates.

### 3 Use

#### 3.1 Restrictions

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

<sup>2</sup> De-icing products containing substances as specified in Number 2 letters b, c or e are only to be used at airfields.

<sup>3</sup> De-icing products containing substances as specified in Number 2 letter d are only to be used at airfields and on footpaths that border green areas.

<sup>4</sup> De-icing products containing substances as specified in Number 2 letter f are only to be used as brine additives and only:

- a. on motorways, if:
  1. the brine is spread mechanically using brine or pre-wetted salt technology, and
  2. its dissolved organic carbon (DOC) is readily biodegradable and its pre-wetted salt content does not exceed 20 grams per kilogram by mass

<sup>129</sup> Revised by No II para. 2 of the O of 1 July 2015, in force since 1 Sept. 2015 (AS 2015 2367).

when using brine technology, and 10 grams per kilogram by mass when using pre-wetted salt technology;

- b. on other road surfaces, if:
  1. the brine is spread mechanically using pre-wetted salt technology, and
  2. its dissolved organic carbon (DOC) is readily biodegradable and its pre-wetted salt content does not exceed 10 grams per kilogram by mass.

### **3.2 Exemptions**

The FOEN may permit certain users to use de-icing products containing de-icing substances other than those specified in Number 2 for purposes of suitability testing. Authorisation is granted for a period of no more than three months. It may be renewed.

### **3.3 Use by public services for winter road treatment**

<sup>1</sup> As far as appropriate, snow-covered roads must be cleared mechanically before use is made of de-icing products.

- <sup>2</sup> De-icing products are only to be used by public services for winter road treatment:
- a. if mechanical spreaders are deployed which ensure uniform application;
  - b. for preventive purposes in critical weather conditions and only on motorways and at exposed sites.

<sup>3</sup> With regard to public roads, paths and squares, the cantons shall ensure that it is defined when, where and how de-icing products must be applied or other methods must be used to combat ice and slippery snow.

*Annex 2.8*<sup>130</sup>  
(Art. 3)

## Paints and varnishes

### 1 Definitions

<sup>1</sup> *Cadmium-containing paints and varnishes* are paints and varnishes containing cadmium or cadmium compounds and with a cadmium content of 0.01% or more by mass.

<sup>2</sup> *Lead-containing paints and varnishes* are paints and varnishes containing lead or lead compounds and with a lead content of 0.01% or more by mass.

### 2 Prohibitions

<sup>1</sup> It is prohibited for manufacturers to place on the market cadmium-containing paints and varnishes, or articles treated with such paints and varnishes.

<sup>2</sup> It is prohibited for manufacturers to place on the market lead-containing paints and varnishes, or articles treated with such paints and varnishes.

<sup>3</sup> The placing on the market of packaging and packaging components treated with cadmium- or lead-containing paints or varnishes is governed by Annex 2.16 Number 4.

### 3 Exemptions

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

- a. paints and varnishes with a zinc content of 10% or more by mass, provided that the content of cadmium or cadmium compounds by weight does not exceed 0.1% cadmium;
- b. articles treated with paints or varnishes as specified in letter a.

<sup>2</sup> Without prejudice to Annex 1.17, the prohibition specified in Number 2 paragraph 2 does not apply to:

- a. the import of paints and varnishes for the treatment of articles which are exported in their entirety;
- b. the import of articles which are only finished or repackaged in Switzerland and then re-exported in their entirety;
- c. the placing on the market of paints and varnishes for the treatment of articles as specified in paragraph 3.

<sup>130</sup> Revised by No I 3 of the O of 15 Dec. 2005 (AS **2007** 111), No II para. 3 of the O of 7 Nov. 2012 (AS **2012** 6161) and No II para. 2 of the O of 1 July 2015, in force since 1 Sept. 2015 (AS **2015** 2367).

<sup>3</sup> Without prejudice to Annex 2.16 Numbers 5 and 7 paragraphs 2 and 3 and Annex 2.18 Numbers 3 and 8, the prohibition specified in Number 2 paragraph 2 does not apply to the placing on the market of vehicles, electrical and electronic equipment and the components of such equipment and vehicles treated with paints or varnishes.

#### **4 Transitional provisions**

Manufacturers may continue to place on the market paints and varnishes or articles treated with such paints and varnishes until 31 July 2006.

*Annex 2.9*<sup>131</sup>  
(Art. 3)

## Plastics and additives

### 1 Definitions

<sup>1</sup> *Cadmium-containing plastics* are plastics containing cadmium or cadmium compounds in the form of articles composed entirely or partly of such plastics, or in the form of preparations containing cadmium or cadmium compounds.

<sup>2</sup> *Recovered PVC* is a preparation containing PVC waste.

<sup>3</sup> *Tyres* within the meaning of this Annex are tyres for vehicles of the following categories:

- a. category M, N or O as defined in Annex II, Section A of Directive 2007/46/EC<sup>132</sup>;
- b. category T, R or S as defined in Annex II, Chapter A of Directive 2003/37/EC<sup>133</sup>;
- c. categories L1e – L7e as defined in Article 1 paragraphs 2 and 3 of Directive 2002/24/EC<sup>134</sup>.

### 2 Prohibitions

<sup>1</sup> It is prohibited:

- a. to manufacture or for the manufacturer to place on the market cadmium-containing plastics if the concentration of cadmium is 0.01% or more by mass of the plastic material;

<sup>131</sup> Revised by No I 3 of the O of 15 Dec. 2005 (AS 2007 111), No I 6 of the O of 10 Dec. 2010 (AS 2011 113), No II para. 3 of the O of 7 Nov. 2012 (AS 2012 6161), No II para. 2 of the O of 1 July 2015 (AS 2015 2367), Annex No 3 of the Ordinance on Foodstuffs and Utility Articles of 16 Dec. 2016 (AS 2017 283) and No I of the O of 25 Oct. 2017, in force since 1 Jan. 2018 (AS 2017 5963).

<sup>132</sup> Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive), OJ L 263, 9.10.2007, p. 1; last amended by Regulation (EU) No 65/2012, OJ L 28, 31.1.2012, p. 24. The texts of the European Union legal documents mentioned in this Annex may be accessed at: <http://eur-lex.europa.eu/>

<sup>133</sup> Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003 on type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and repealing Directive 74/150/EEC, OJ L 171, 9.7.2003, p. 1; last amended by Directive 2010/62/EU, OJ L 238, 9.9.2010, p. 7.

<sup>134</sup> Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles and repealing Council Directive 92/61/EEC, OJ L 124, 9.5.2002, p. 1; last amended by Regulation (EC) No 1137/2008, OJ L 311, 21.11.2008, p. 1.

- b. to manufacture or place on the market foams manufactured with substances that deplete the ozone layer (Annex 1.4), or articles containing such foams;
- c. to supply or use foams manufactured with substances stable in the atmosphere (Annex 1.5), or articles containing such foams;
- d. to place on the market or use extender oils for the manufacture of tyres or parts of tyres if these oils contain:
  - 1. more than 1mg/kg benzo[a]pyrene,
  - 2. more than 10mg/kg of the sum 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. to place on the market tyres and treads for retreading if they contain extender oils exceeding the limits specified in letter d;
- e<sup>bis</sup> to place on the market articles which consist entirely or in part of plastics, which contain more than 1 mg of a polycyclic aromatic hydrocarbon as specified in Letter d number 2 per kilogram of plastic if:
  - 1. the articles are intended for supply to the general public, and
  - 2. during the normal or reasonably predictable use of the article a component containing a polycyclic aromatic hydrocarbon comes into direct contact with human skin for an extended period of time or repeatedly for short periods. This applies in particular to:
    - sports equipment such as bicycles, golf clubs, racquets
    - household equipment, vehicles fitted with wheels, walking aids
    - tools for private use
    - clothing, shoes, gloves and sportswear and
    - watch straps, wristbands, masks, headbands;
- f. to place on the market or use acrylamide (CAS no 79-06-1) or substances or preparations containing acrylamide in a concentration of 0.1% or more by mass for grouting applications.

<sup>1bis</sup> The test and analytical methods for determining the limits specified in Paragraph 1 letters d and e are based on entry 50 of Annex XVII to Regulation (EC) No 1907/2006<sup>135</sup>.

<sup>2</sup> For aerosol dispensers used to produce foams, Annex 2.12 applies.

<sup>3</sup> For cadmium-containing plastic packaging, Annex 2.16 Number 4 applies.

<sup>4</sup> For toys and articles for infants and small children that contain polycyclic aromatic hydrocarbons as specified in paragraph 1 letter d number 2, the Foodstuffs and Utility Articles Ordinance of 16 December 2016<sup>136</sup> applies.

### 3 Exemptions

<sup>1</sup> The prohibitions specified in Number 2 paragraph 1 letter a, do not apply to:

- a. recovered PVC, provided that the exceedance of the specified cadmium limit is attributable to the PVC waste used, and cadmium or cadmium compounds are not introduced as a constituent during the manufacturing process;
- b. plastics containing recovered PVC as specified in letter a, if their concentration of cadmium does not exceed 0.1% by mass of the plastic material in the following rigid PVC applications:
  1. profiles and rigid sheets for building applications,
  2. doors, windows, shutters, walls, blinds, fences, and roof gutters,
  3. decks and terraces,
  4. cable ducts,
  5. pipes for non-drinking water if the recovered PVC is used in the middle layer of a multilayer pipe and is entirely covered with a layer of newly produced PVC.

<sup>2</sup> The prohibitions specified in Number 2 paragraph 1 letter c do not apply if:

- a. in the current state of the art the necessary thermal insulation cannot be obtained using other materials;
- b. the quantity and the global warming potential of the substances stable in the atmosphere being used are no greater than is required for the intended purpose in the current state of the art; and
- c. emissions of substances stable in the atmosphere are kept as low as possible throughout the life cycle of the intended use, in particular during the disposal

<sup>135</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC, OJ L 396, 30.12.2006, p. 1; last amended by Regulation (EU) No 412/2012, OJ L 128, 16.5.2012, p. 1; last amended by Regulation (EU) 2015/326, OJ L 58, 3.3.2015, p. 43.

<sup>136</sup> SR **817.02**

of wastes from foams and from substances stable in the atmosphere contained therein.

<sup>3</sup> After consulting interested parties and the cantons, the Federal Office for the Environment (FOEN) shall issue recommendations for the enforcement authorities on the current state of the art and on the disposal of wastes as specified in paragraph 2.

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

- a. in the current state of the art, no substitute is available for the substances stable in the atmosphere or for the preparations and articles manufactured using such substances;
- b. the quantity and the global warming potential of the substances stable in the atmosphere being used are no greater than is required for the intended purpose in the current state of the art; and
- c. emissions of substances stable in the atmosphere are kept as low as possible throughout the life cycle of the intended use, in particular during the disposal of wastes from foams and from substances stable in the atmosphere contained therein

<sup>5</sup> The prohibition specified in 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 specified in Number 2 paragraph 1 letter d.

#### 4 Special labelling

<sup>1</sup> Manufacturers of foams must inform the purchasers, by means of labelling or in an equivalent written form, about the foam-blowing agents contained in the foam.

<sup>2</sup> Preparations and articles containing recovered PVC must be marked with the text «Contains recovered PVC» or with the following pictogram:



<sup>3</sup> Preparations containing methylenediphenyl diisocyanate in a concentration of 0.1% or more by mass and intended for supply to the general public must be marked as follows: «Persons already sensitised to diisocyanates may develop allergic reactions when using this product. – Persons suffering from asthma, eczema or skin problems should avoid contact, including dermal contact, with this product. – This product should not be used under conditions of poor ventilation unless a protective mask with an appropriate gas filter (i.e. type A1 according to standard EN 14387) is used.»

<sup>4</sup> The information specified in paragraph 1 and the markings specified in paragraphs 2–3 must appear in at least two official languages and be visible, clearly legible and indelible.

#### **4<sup>bis</sup> Special packaging**

The packaging of a preparation containing methylenediphenyl diisocyanate in a concentration of 0.1% or more by mass and intended for supply to the general public must contain protective gloves which comply with the requirements specified in Article 13 paragraph 2 in conjunction with Article 12 paragraph 2 of the Ordinance on Product Safety of 19 May 2010<sup>137</sup>. This does not apply to packaging for hot melt adhesives.

### **5 Reporting requirements**

Manufacturers of foams manufactured using substances stable in the atmosphere must inform the FOEN, if so requested, of:

- a. the type and quantity of foams supplied in Switzerland during the previous three years, classified by origin (imported or manufactured in Switzerland);
- b. the type and quantity of substances stable in the atmosphere contained in the foams supplied.

### **6 Transitional provisions**

<sup>1</sup> The prohibition on imports specified in Number 2 paragraph 1 letter b does not apply to imports of:

- a. cooling appliances, water heaters and hot water storage tanks with foams which contain partially halogenated hydrochlorofluorocarbons (Annex 1.4), if they were manufactured before 1 January 2000;
- b. motor vehicles with foams manufactured using fully halogenated chlorofluorocarbons (Annex 1.4), or spare parts and accessories intended for these vehicles and containing such foams, if they were manufactured before 1 October 1994;
- c. integral skin foams for use in safety applications manufactured using partially halogenated hydrochlorofluorocarbons, if they were manufactured before 1 January 2000.

<sup>2</sup> The prohibition on use specified in Number 2 paragraph 1 letter c does not apply to the use of foams manufactured using substances stable in the atmosphere, or to articles containing such foams, if they were supplied before 1 January 2004.

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

<sup>4</sup> The prohibition specified in Number 2 paragraph 1 letter e does not apply to the placing on the market of tyres and treads for retreading which were manufactured before 1 January 2010.

<sup>137</sup> SR 930.111

<sup>5</sup> The prohibition specified in Number 2 paragraph 1 letter e<sup>bis</sup> does not apply to the placing on the market of articles which were first placed on the market before 1 September 2016.

*Annex 2.10*<sup>138</sup>  
(Art. 3)

## Refrigerants

### 1 Definitions

<sup>1</sup> *Refrigerants* are substances and preparations which, in appliances or systems, transport heat from a lower to a higher temperature.

<sup>2</sup> *Ozone-depleting refrigerants* are refrigerants containing substances that deplete the ozone layer (Annex 1.4).

<sup>3</sup> *Refrigerants stable in the atmosphere* are refrigerants containing substances stable in the atmosphere (Annex 1.5).

<sup>4</sup> A *system* comprises all refrigeration circuits used for one and the same application: it may comprise one or more chillers. The term «chiller» refers to a compact cooling system with one or more refrigeration circuits.

<sup>5</sup> Modification of the cooling components (or part) of existing systems is deemed to be equivalent to the placing on the market of systems.

<sup>6</sup> An *appliance* is a plug-in cooling system not permanently connected to refrigerant or thermal distribution piping. Fixed appliances are classified as appliances rather than as systems.

<sup>7</sup> *Medium temperature cooling* is cooling with an evaporation temperature ( $t_0$ ) not lower than  $-10^{\circ}\text{C}$  and a condensation temperature ( $t_c$ ) not higher than  $+45^{\circ}\text{C}$ .

<sup>8</sup> *Low temperature cooling* is cooling with an evaporation temperature ( $t_0$ ) not lower than  $-33^{\circ}\text{C}$  and a condensation temperature ( $t_c$ ) not higher than  $+40^{\circ}\text{C}$ .

## 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 or export:

- a. ozone-depleting refrigerants;
- b. appliances or systems using ozone-depleting refrigerants.

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

- a. household refrigerators and freezers;
- b. dehumidifiers;

<sup>138</sup> Revised by No I 6 of the O of 10 Dec. 2010 (AS **2011** 113), No II para. 3 of the O of 7 Nov. 2012 (AS **2012** 6161) and No II para. 2 of the O of 1 July 2015 (AS **2015** 2367) and No I of the FOEN O of 27 Sept. 2018, in force since 1 Nov. 2018 (AS **2018** 3519).

- c. air conditioners;
- d. air conditioning systems used in motor vehicles.

<sup>3</sup> It is prohibited to place on the market the following stationary systems which are operated using the following refrigerants which are stable in the atmosphere:

- a. air conditioning systems for:
  - 1. cooling with a cooling capacity of more than 600 kW,
  - 2. cooling and heating by means of variable refrigerant flow (VRF) systems or variant refrigerant volume (VFV) systems with more than 40 evaporator units or a cooling capacity of more than 80 kW,
  - 3. local and district heating using a heat pump with a cooling capacity of more than 600 kW;
- b. commercial refrigeration systems for:
  - 1. low temperature cooling with a cooling capacity of more than 30 kW,
  - 2. medium temperature cooling with a cooling capacity of more than 40 kW,
  - 3. low temperature cooling with a cooling capacity of more than 8 kW, if the low temperature cooling can be combined with medium temperature cooling,
  - 4. medium temperature cooling, if the refrigerant used, which is stable in the atmosphere, has a greenhouse potential exceeding 2500;
- c. industrial refrigeration systems for:
  - 1. deep freezing with a cooling capacity of more than 100 kW,
  - 2. all other applications with a cooling capacity of more than 400 kW;
- d. ice rinks, except for temporary systems.

## 2.2 Exemptions

<sup>1</sup> The prohibitions specified in Number 2.1 paragraph 1 letter b do not apply to the supply, import or export of appliances belonging to a private household.

<sup>2</sup> The prohibitions specified in Number 2.1 paragraph 2 letters a–c do not apply to the supply or import of appliances belonging to a private household.

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

- a. in the current state of the art, no substitute is available; and
- b. state-of-the-art measures have been taken to prevent refrigerant emissions.

<sup>3bis</sup> The prohibitions specified in Number 2.1 paragraph 3 do not apply to cascade systems with evaporation temperatures below – 50°C if:

- a. in the current state of the art, no substitute is available; and
- b. the available state-of-the-art measures for the reduction of climate impacts have been taken.

<sup>4</sup> On receipt of a justified request, the FOEN may grant temporary exemptions to the prohibitions specified in Number 2.1 if:

- a. in the current state of the art, no substitute is available;
- b. in the current state of the art, the most refrigerant stable in the atmosphere with the smallest impact on climate has been selected; and
- c. state-of-the-art measures have been taken to prevent refrigerant emissions.

<sup>5</sup> On receipt of a justified request, the FOEN may grant an exemption to the prohibition specified in Number 2.1 paragraph 3 if:

- a. in the current state of the art, it would not be possible to comply with the standards SN EN 378-1:2017, SN EN 378-2:2017 und SN EN 378-3:2017<sup>139</sup> without the use of a refrigerant which is stable in the atmosphere;
- b. in the current state of the art, the most refrigerants stable in the atmosphere with the smallest impact on climate have been specified for use; and
- c. state-of-the-art measures have been taken to prevent refrigerant emissions.

<sup>6</sup> With the agreement of the SECO, the FOEN can adapt Paragraph 5 letter a in the event of changes to the specified norms.

## **2.2<sup>bis</sup> Operator and information obligations relating to exemptions**

<sup>1</sup> A system, which may only be placed on the market if an exemption has been granted for it as specified in Number 2.2 paragraph 5, may only be operated if the operator of this system has first ascertained that this authorisation is available.

<sup>2</sup> Any person who places such a system on the market shall provide the operator of this system with a copy of the exemption permit free of charge.

## **2.3 Reduction of the quantity of refrigerants**

<sup>1</sup> Air cooling (medium temperature) systems with refrigerants stable in the atmosphere and that have at least three air coolers and a cooling capacity of more than 80 kW must be equipped with a secondary refrigerant circuit.

<sup>2</sup> Air-cooled condensers must not be used in:

- a. systems containing a refrigerant which is stable in the atmosphere with a global warming potential of more than 4000;
- b. systems with a cooling capacity of more than 100kW, if they contain per kW of cooling capacity:
  1. over 0.18kg of a refrigerant which is stable in the atmosphere with a global warming potential of more than 1900,

<sup>139</sup> The standards can be obtained from the Schweizerischen Normenvereinigung (SNV), Bürglistrasse 29, 8400 Winterthur ([www.snv.ch](http://www.snv.ch)). They can be viewed free of charge at the FOEN, Worbenthalstr. 68, 3063 Ittigen.

2. over 0.4kg of a refrigerant which is stable in the atmosphere with a global warming potential of more than 1900;
- c. systems with a cooling capacity of more than 100kW, which have a device for waste heat recovery if they contain per kW of cooling capacity:
  1. over 0.22kg of a refrigerant that is stable in the atmosphere with a global warming potential of more than 1900,
  2. over 0.48kg of a refrigerant that is stable in the atmosphere with a global warming potential of 1900 or less;
- d. systems with a cooling capacity of more than 100kW, which are used simultaneously for warming and cooling and have at least two air heat exchangers, if they have over 0.37kg of a refrigerant which is stable in the air with a global warming potential of more than 1900 per kW of cooling capacity.

### **2.3<sup>bis</sup> Special labelling for professionals**

<sup>1</sup> Manufacturers of appliances and systems must provide on the appliance or system a clear indication of the types and quantities of refrigerants used.

<sup>2</sup> For appliances and systems containing or designed to contain refrigerants stable in the atmosphere which are listed in Annex A to the Kyoto Protocol, the labelling must include the following information:

- a. the text «Contains fluorinated greenhouse gases covered by the Kyoto Protocol»;
- b. the abbreviated chemical names for the substances stable in the atmosphere contained or designed to be contained in the appliances or systems, using the industry nomenclature accepted for the area concerned;
- c. the quantity of the substances stable in the atmosphere, expressed in kilograms;
- d. the text «hermetically sealed», where applicable.

<sup>3</sup> Manufacturers must label appliances and systems with the text «Foam blown with fluorinated greenhouse gases» if they:

- a. contain refrigerants stable in the atmosphere which are listed in Annex A to the Kyoto Protocol; and
- b. are insulated with foam blown with substances stable in the atmosphere which are listed in Annex A to the Kyoto Protocol before being placed on the market.

<sup>4</sup> The labelling specified in paragraphs 2 and 3 must appear in at least two official languages and be visible, clearly legible and indelible.

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

<sup>1</sup> Refrigerants and systems already containing refrigerants where commissioning involves the performance of operations on the refrigerant circuit may only be supplied to recipients who meet the requirements specified in Article 7 paragraph 1 letter b for the handling of refrigerants.

<sup>2</sup> Units of more than 100 g of ozone-depleting refrigerants or refrigerants stable in the atmosphere may only be supplied in reusable containers.

## **3 Use**

### **3.1 Duty of care**

Any person who handles or uses refrigerants, or appliances or systems containing refrigerants, must ensure that the refrigerants do not pose a risk to the environment, in particular:

- a. by preventing emissions of refrigerants; and
- b. by ensuring that wastes from such substances are appropriately disposed of.

### **3.2 Refilling with ozone-depleting refrigerants**

#### **3.2.1 Prohibition**

It is prohibited to refill appliances or systems with ozone-depleting refrigerants.

#### **3.2.2 Exemptions**

<sup>1</sup> On receipt of a justified request, the FOEN may grant temporary exemptions to the prohibition specified in Number 3.2.1 for regenerated partly halogenated chlorofluorocarbons if:

- a. for technical, operational or economic reasons, it is not possible to comply with the prohibition within the set deadline;
- b. the applicant acquired the volume of refrigerant with regenerated partly halogenated chlorofluorocarbons for possible refilling before 1 January 2015.

<sup>2</sup> An exemption as specified in paragraph 1 is granted until 30 June 2016 at the latest.

<sup>3</sup> Provided that it supports the safety of a nuclear power plant or another particularly complex system, the exemption may be extended beyond 30 June 2016.

### **3.3 ...**

### 3.4 Leak checking

<sup>1</sup> The owners of the following appliances and systems must arrange for leak checking to be carried out regularly, but at least whenever an intervention or service is performed:

- a. appliances and systems containing more than 3kg of ozone-depleting refrigerants or refrigerants stable in the atmosphere;
- b. refrigeration and air conditioning systems used in motor vehicles and containing ozone-depleting refrigerants or refrigerants stable in the atmosphere.

<sup>2</sup> If a leak is detected, the owner must arrange for the appliance or system to be repaired immediately.

### 3.5 Maintenance log

<sup>1</sup> Owners of appliances and systems containing more than 3kg of refrigerants must ensure that a maintenance log is kept.

<sup>2</sup> The name of the owner of the appliance or system must appear on the maintenance log.

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

- a. the date of the intervention or service;
- b. a brief description of the work performed;
- c. the result of the leak checking specified in Number 3.4;
- d. the quantity and type of refrigerant removed;
- e. the quantity and type of refrigerant used for refilling;
- f. the name of the company and the specialist's own name and signature.

## 4 Disposal

Any person who receives appliances or systems containing refrigerants for disposal must remove the refrigerants contained and dispose of them separately and appropriately.

## 5 Reporting requirements

<sup>1</sup> Any person who has commissioned or is commissioning or decommissioning a stationary system containing more than 3kg of ozone-depleting refrigerants or refrigerants stable in the atmosphere must report this to the FOEN.

<sup>2</sup> The report must contain the following information:

- a. the date of commissioning or decommissioning;
- b. the type, location and cooling capacity of the system;

- c. the type and quantity of refrigerant contained;
- d. in the case of decommissioning: the person receiving the refrigerant.

<sup>3</sup> Specialist companies shall take appropriate measures to draw their clients' attention to the reporting requirements.

<sup>4</sup> The FOEN specifies a number for each system and notifies it to the person obliged to file a report, who has initiated the operation or operates a stationary system with more than 3kg of ozone-depleting refrigerants or refrigerants which are stable in the atmosphere.

<sup>5</sup> The person obliged to file a report must immediately display the number notified by the FOEN in a visible, legible and permanent way.

## **6 Recommendations**

The FOEN shall issue recommendations concerning:

- a. the state of the art as specified in Number 2.2 paragraph 5;
- b. leak checking as specified in Number 3.4;
- c. the maintenance log as specified in Number 3.5.

## **7 Transitional provisions**

<sup>1</sup> The prohibitions specified in Number 2.1 paragraph 2 concerning the placing on the market and import on a private basis do not apply to household refrigerators and freezers, dehumidifiers or air conditioners manufactured before 1 January 2005.

<sup>2</sup> If as specified in Number 3.3 in the version of 18 May 2005<sup>140</sup>, authorisation was granted for the construction of a stationary system with over 3kg of refrigerants which are stable in the atmosphere before 1 December 2013, the corresponding system may only be constructed until 31 December 2016.

<sup>140</sup> AS 2005 2917

*Annex 2.11*<sup>141</sup>  
(Art. 3)

## Extinguishing agents

### 1 Definitions

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

<sup>2</sup> *Extinguishing agents stable in the atmosphere* are extinguishing agents containing substances stable in the atmosphere (Annex 1.5).

<sup>3</sup> The modification of existing systems is deemed to be equivalent to the placing on the market of systems.

#### **1<sup>bis</sup> Extinguishing agents containing PFOS**

For extinguishing agents containing PFOS, Annex 1.16 applies.

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

### 2.1 Prohibition

It is prohibited to place on the market or import on a private basis ozone-depleting extinguishing agents or extinguishing agents stable in the atmosphere, or appliances or systems containing such extinguishing agents.

### 2.2 Exemptions

The prohibitions specified in Number 2.1 do not apply:

- a. to supply for purposes of recycling;
- b. to the import of portable extinguishers for use in one's own vehicle;
- c. to the re-import of extinguishing agents for which there is proof that they were exported for recycling;
- d. if, in the current state of the art of fire prevention, the safety of persons in aeroplanes, special-purpose military vehicles or nuclear installations cannot be adequately ensured without the use of ozone-depleting extinguishing agents or extinguishing agents stable in the atmosphere; the FOEN may in other similar cases grant temporary exemptions for the owners of individual items of property.

<sup>141</sup> Revised by No I 6 of the O of 10 Dec. 2010 (AS 2011 113) and No II para. 2 of the O of 1 July 2015, in force since 1 Sept. 2016 (AS 2015 2367).

### **3 Export**

#### **3.1 Prohibitions**

It is prohibited to export:

- a. ozone-depleting extinguishing agents;
- b. waste from ozone-depleting extinguishing agents; and
- c. articles and systems required for the use of ozone-depleting extinguishing agents.

#### **3.2 Exemptions**

<sup>1</sup> Ozone-depleting extinguishing agents, together with articles and systems required for the use of ozone-depleting extinguishing agents, may be exported for use in aircraft, in special purpose military vehicles and in nuclear installations if, in the current state of the art of fire prevention, the safety of persons cannot be adequately ensured without the use of ozone-depleting extinguishing agents.

<sup>2</sup> Waste from ozone-depleting extinguishing agents may only be exported for neutralisation, disposal or treatment for re-importation.

#### **3.3 Export licence**

<sup>1</sup> Any person wishing to export ozone-depleting extinguishing agents with a gross mass exceeding 20 kg must apply to the FOEN for an export licence.

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

- a. the name and address of the applicant;
- b. the name and address of the foreign importer;
- c. the following information on each ozone-depleting extinguishing agent that is to be exported:
  1. the chemical name in accordance with an internationally recognised nomenclature,
  2. the customs tariff number in accordance with the annexes to the CTA<sup>142</sup>,
  3. the name and address of the previous holder,
  4. the intended export quantity in kilogrammes,
  5. confirmation in accordance with paragraph 3 letter b.

<sup>3</sup> An export licence is issued if:

- a. the export is to states that comply with the provisions of the Montreal Protocol of 16 September 1987<sup>143</sup> on Substances that Deplete the Ozone Layer

<sup>142</sup> SR 632.10

<sup>143</sup> SR 0.814.021

and the Amendments to the Protocol of 29 June 1990<sup>144</sup>, 25 November 1992<sup>145</sup>, 17 September 1997<sup>146</sup> and 3 December 1999<sup>147</sup> (Montreal Protocol), as approved by Switzerland<sup>148</sup>; and

- b. the recipient has confirmed to the exporter that they will be used exclusively for an application specified in No 3.2 paragraph 1 for which, in the current state of the art, no substitute is available in the recipient country. The confirmation must state the location, type and purpose of the system in which the extinguishing agent is to be used.

<sup>4</sup> The FOEN may require additional information on origin and destination of the ozone-depleting extinguishing agents. It shall decide on a completed application within two months.

<sup>5</sup> The person required to submit a declaration under the customs legislation must present the export licence when making the customs declaration.

<sup>6</sup> The exporter must retain the export licence for five years from the time of export of the ozone-depleting extinguishing agent.

## 4 Use

Ozone-depleting extinguishing agents and extinguishing agents stable in the atmosphere must not enter the environment, except when used in fire-fighting. In particular, use in exercises and tests is prohibited.

## 5 Recommendations

The FOEN shall issue recommendations for the enforcement authorities concerning the export and appropriate disposal of ozone-depleting extinguishing agents.

## 6 Appliances and systems containing ozone-depleting extinguishing agents or extinguishing agents stable in the atmosphere

### 6.1 Information required by the FOEN

Owners of appliances containing more than 8kg of ozone-depleting extinguishing agents or extinguishing agents stable in the atmosphere, or of systems containing such extinguishing agents, must inform the FOEN of:

- a. the type and location of the appliances or systems;
- b. the date of purchase or installation;

<sup>144</sup> SR **0.814.021.1**

<sup>145</sup> SR **0.814.021.2**

<sup>146</sup> SR **0.814.021.3**

<sup>147</sup> SR **0.814.021.4**

<sup>148</sup> The list of states may be obtained on the internet from the FOEN at [www.bafu.admin.ch](http://www.bafu.admin.ch) > Chemikalien > Bestimmungen und Verfahren.

- c. the type and quantity of extinguishing agent;
- d. the type of property protected;
- e. in the case of decommissioning of appliances or systems: the date of decommissioning and the recipient of the extinguishing agent.

## 6.2 Servicing

<sup>1</sup> Owners of appliances containing ozone-depleting extinguishing agents or extinguishing agents stable in the atmosphere must have these appliances serviced by a specialist every three years.

<sup>2</sup> Owners of systems containing ozone-depleting extinguishing agents or extinguishing agents stable in the atmosphere must have these systems serviced by a specialist once a year.

## 7 Reporting requirements

<sup>1</sup> Any person who supplies, receives or exports ozone-depleting extinguishing agents or extinguishing agents stable in the atmosphere, or appliances or systems containing such extinguishing agents, must provide the FOEN each year, by 31 March, with the following information in respect of the previous year:

- a. the type and number of appliances and systems supplied;
- b. the quantity of extinguishing agents supplied in appliances;
- c. the quantity of extinguishing agents supplied for appliances and systems;
- d. the quantity of extinguishing agents received from owners of decommissioned appliances and systems;
- e. the quantity of extinguishing agents no longer needed which were submitted for treatment;
- f. the quantity of extinguishing agents re-imported after being recycled abroad (No. 2.2 let. c).

<sup>2</sup> The information must be classified by:

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

<sup>3</sup> Any person who exports ozone-depleting extinguishing agents must, at the time of export at the latest, inform the FOEN of the quantity exported and present the confirmation specified in Number 3 paragraph 1.

## **8 Special labelling**

<sup>1</sup> Extinguishing appliances and systems containing or designed to contain extinguishing agents stable in the atmosphere which are listed in Annex A to the Kyoto Protocol must be labelled by manufacturers with the following information:

- a. the text: «Contains fluorinated greenhouse gases covered by the Kyoto Protocol»;
- b. the abbreviated chemical names for the fluorinated greenhouse gases contained or designed to be contained, using the industry nomenclature accepted for the area concerned;
- c. the quantity of extinguishing agents stable in the atmosphere, expressed in kilograms.

<sup>2</sup> The labelling specified in paragraph 1 must appear in at least two official languages and be visible, clearly legible and indelible.

*Annex 2.12*<sup>149</sup>  
(Art. 3)

## Aerosol dispensers

### 1 Definitions

<sup>1</sup> *Aerosol dispensers* are non-refillable receptacles made of metal, glass or plastics and containing a gas compressed, liquefied or dissolved under pressure, with or without a liquid, paste or powder. They are fitted with a release device allowing the contents to be ejected as a gas or as solid or liquid particles in suspension in a gas, as a foam, paste or powder or in a liquid state. They may comprise one or more chambers.

<sup>2</sup> *Entertainment or decoration purposes* comprise in particular:

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

### 2 Prohibitions

<sup>1</sup> It is prohibited to manufacture or place on the market aerosol dispensers if they contain:

- a. substances that deplete the ozone layer (Annex 1.4); or
- b. substances stable in the atmosphere (Annex 1.5).

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

- a. vinyl chloride; or

<sup>149</sup> Amended by No II para. 2 of the O of 7 Nov. 2012 (AS 2012 6161). Revised by Annex No 3 of the Ordinance on Foodstuffs and Utility Articles of 16 Dec. 2016, in force since 1 May 2017 (AS 2017 283). The correction of 20 Nov. 2018 relates to the French and Italian texts only (AS 2018 4093).

- b. bases or acids in liquid phase, or solvents, and must be labelled as follows in accordance with Annex III to Directive 67/548/EEC<sup>150</sup> or Annex III to Regulation (EC) No 1272/2008<sup>151</sup>:

1. R23, R26, or
2. H330, H331.

<sup>2bis</sup> It is prohibited to supply aerosol dispensers to the general public if they contain bases or acids in liquid phase or solvents and must be labelled as follows in accordance with Annex III to Directive 67/548/EEC or Annex III to Regulation (EC) No 1272/2008:

1. R34, R35, R41, or
2. H314, H318.

<sup>3</sup> Aerosol dispensers for entertainment or decoration purposes must not be supplied to the general public if they contain substances which on their own or in the form of preparations meet the criteria specified in Annex I to Regulation (EC) No 1272/2008 for one of the following hazard classes:

- a. hazard classes 2.2 (flammable gases), 2.6 (flammable liquids), 2.7 (flammable solids);
- b. hazard classes 2.9 (pyrophoric liquids), 2.10 (pyrophoric solids);
- c. hazard class 2.12 (substances and mixtures which in contact with water emit flammable gases).

### 3 Exemptions

<sup>1</sup> The prohibitions specified in Number 2 paragraph 1 letter b do not apply to medicinal products, medical devices or expanding foams, or to cleaning products for energised electrical systems and appliances, if:

- a. in the current state of the art, no substitute is available for the substances stable in the atmosphere, or for the preparations and articles containing such substances; and
- b. the quantity and the global warming potential of the substances stable in the atmosphere being used are no greater than is required for the intended purpose in the current state of the art.

<sup>150</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances, OJ L 196, 16.8.1967, p. 1, last amended by Directive 2009/2/EC, OJ L 11, 16.1.2009, p. 6.

<sup>151</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No 1907/2006, OJ L 353, 31.12.2008, p. 1; in the version referred to Annex 2, No 1, of the Chemicals Ordinance of 5 June 2015 (ChemO).

<sup>2</sup> On receipt of a justified request and with the agreement of the FOPH, the FOEN may grant a manufacturer a temporary exemption from the prohibition specified in Number 2 paragraph 1 letter b if:

- a. in the current state of the art, no substitute is available for the substances stable in the atmosphere, or for the preparations and articles containing such substances; and
- b. the quantity and the global warming potential of the substances stable in the atmosphere being used are no greater than is required for the intended purpose in the current state of the art.

<sup>3</sup> The prohibition on supply to the general public specified in Number 2 paragraph 3 does not apply to aerosol dispensers which are referred to in Article 8 paragraph 1 letter a of Directive 75/324/EEC<sup>152</sup> and which meet the requirements specified therein.

#### **4 Special labelling**

<sup>1</sup> Aerosol dispensers as specified in Number 2 paragraph 3 must be labelled as follows: «For professional users only».

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

#### **5 Reporting requirements**

Any persons who themselves fill or import aerosol dispensers with substances stable in the atmosphere must inform the FOEN, if so requested, of the quantities of the various substances used during the past three years; the information must be classified by import, consumption in Switzerland and export, as well as by intended use.

<sup>152</sup> Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers, OJ L 147, 9.6.1975, p. 40; last amended by Regulation (EC) No 219/2009, OJ L 87, 31.3.2009, p. 109.

## **Thermal fuel additives**

### **1 Definition**

Thermal fuel additives are substances or preparations added to thermal fuels, in particular to improve combustion or extend storage life.

### **2 Special labelling**

<sup>1</sup> The packaging of thermal fuel additives must indicate that they are not to be used for «extra-light» heating fuel if they contain:

- a. halogenated or heavy metal compounds (except iron compounds); or
- b. substances, such as magnesium compounds, which distort the results of smoke number measurement in the control of oil-fired installations.

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

### **3 Addition to thermal fuels**

For the addition of additives to thermal fuels, the requirements specified in Annex 5 to the Air Pollution Control Ordinance of 16 December 1985<sup>153</sup> apply.

*Annex 2.14*<sup>154</sup>  
(Art. 3)

## Capacitors and transformers

### 1 Definitions

<sup>1</sup> *Pollutant-containing capacitors and transformers* are capacitors and transformers containing:

- a. halogenated aromatic compounds, such as polychlorinated biphenyls (PCBs), halogenated diarylalkanes or halogenated benzenes; or
- b. substances or preparations containing more than 500 ppm monohalogenated or more than 50 ppm polyhalogenated aromatic compounds as impurities.

<sup>2</sup> Capacitors manufactured in or before 1982 are deemed to be pollutant-containing unless the owner provides 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 pollutant-containing capacitors and transformers.

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

- a. pollutant-containing capacitors with a total mass in excess of 1kg;
- b. pollutant-containing transformers.

### 3 Monitoring

<sup>1</sup> The inspection bodies specified in Article 26 paragraph 1 of the Ordinance of 7 November 2001<sup>155</sup> on Low-Voltage Electrical Installations shall also check, as part of the enforcement responsibilities assigned to them, whether pollutant-containing capacitors with a total mass in excess of 1kg are being used.

<sup>2</sup> If the inspection bodies suspect or determine that such capacitors are being used, they shall notify the owner of the installation and the authority of the canton in whose territory the installation is located.

<sup>3</sup> If necessary, the authority notified in accordance with paragraph 2 shall order the decommissioning or replacement of the capacitors referred to in paragraph 1, and their disposal.

<sup>4</sup> The costs of the checking specified in paragraph 1 shall be borne by the owner of the installation.

<sup>154</sup> Revised by No I 6 of the O of 10 Dec. 2010, in force since 1 Feb. 2011 (AS 2011 113).  
<sup>155</sup> SR 734.27

*Annex 2.15*<sup>156</sup>  
(Art. 3)

## Batteries

### 1 Definitions

<sup>1</sup> *Batteries* are sources of electricity that convert chemical energy directly to electrical energy and which consist of one or more non-rechargeable cells (primary cells) or one or more rechargeable cells (accumulators).

<sup>2</sup> *Automotive batteries* are batteries used for automotive starter, lighting or ignition power.

<sup>3</sup> *Portable batteries* are batteries that:

- a. are sealed;
- b. can be hand-carried;
- c. are not designed exclusively for professional or industrial uses, or for powering any type of electrical vehicle; and
- d. are not automotive batteries.

<sup>4</sup> *Button cells* are small round portable batteries, of which the diameter is greater than the height, and which are used for special purposes such as to provide power for hearing aids, watches or small portable equipment, or back-up power.

<sup>5</sup> *Industrial batteries* are batteries designed exclusively for industrial or professional uses or for powering any type of electrical vehicle, or other batteries not classified as portable or automotive batteries.

<sup>6</sup> *Appliances* are electrical and electronic equipment, as defined in Article 3 letter a of Directive 2002/96/EC<sup>157</sup>, which is fully or partly powered by batteries or is capable of being so.

### 2 Prohibitions

<sup>1</sup> Batteries, including those incorporated into appliances, must not be placed on the market if they contain more than 5 mg mercury per kilogram.

<sup>2</sup> Portable batteries, including those incorporated into appliances, must not be placed on the market if they contain more than 20 mg cadmium per kilogram.

<sup>156</sup> Amended by No I 5 of the O of 10 Dec. 2010 (AS 2011 113). Revised by No II para. 3 of the O of 7 Nov. 2012 (AS 2012 6161) and No II para. 2 of the O of 1 July 2015, in force since 1 Sept. 2015 (AS 2015 2367).

<sup>157</sup> Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment, OJ L 37, 13.2.2003, p. 24. The texts of the European Union legal documents mentioned in this Annex may be accessed at: [www.cheminfo.ch](http://www.cheminfo.ch)

### 3 Exemptions

<sup>1</sup> ...

<sup>2</sup> The prohibition specified in Number 2 paragraph 2 does not apply to portable batteries intended for use in:

- a. emergency and alarm systems, including emergency lighting;
- b. medical equipment.

### 4 Information

#### 4.1 Special labelling

<sup>1</sup> Manufacturers of batteries, and of vehicles or appliances containing batteries, must ensure that information on disposal via separate collection is displayed on the batteries in a visible, clearly legible and indelible form. Batteries containing more than 5 mg mercury, more than 20 mg cadmium, or more than 40 mg lead per kilogram must also be marked with the chemical symbol Hg, Cd or Pb for the metal concerned.

<sup>2</sup> The markings required in accordance with paragraph 1 must take the form specified in Article 21 of Directive 2006/66/EC<sup>158</sup>.

<sup>3</sup> Manufacturers of automotive batteries and portable rechargeable batteries, and of vehicles or appliances containing such batteries, must ensure that the automotive and portable batteries are provided with labelling indicating their capacity in a visible, clearly legible and indelible form.

<sup>4</sup> Paragraph 3 does not apply to the portable rechargeable batteries specified in Annex I to Regulation (EU) No 1103/2010<sup>159</sup>.

<sup>5</sup> The determination of capacity as specified in paragraph 3 and the capacity label design are governed by Articles 2–4 of Regulation (EU) No 1103/2010.

#### 4.2 Sales points and advertising

<sup>1</sup> At sales points where batteries are supplied, it must be clearly and prominently indicated that:

- a. batteries must be handed over to a sales point for disposal or disposed of via a battery collection scheme or collection point;
- b. batteries are taken back free of charge at the sales point for disposal; and
- c. batteries are subject to a fee intended to finance the costs of disposal.

<sup>158</sup> Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC, OJ L 266, 26.9.2006, p. 1; last amended by Directive 2008/103/EC, OJ L 327, 5.12.2008, p. 7.

<sup>159</sup> Commission Regulation (EU) No 1103/2010 of 29 November 2010 establishing, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, rules as regards capacity labelling of portable secondary (rechargeable) and automotive batteries and accumulators, OJ L 313, 30.11.2010, p. 3.

<sup>2</sup> Advertisements for batteries must draw attention to the bring-back obligation specified in Number 5.1.

## **5 Bring-back and take-back obligation**

### **5.1 Bring-back obligation**

Consumers must hand over batteries to a trader or manufacturer with a take-back obligation or dispose of them via a battery collection scheme or collection point. Automotive batteries may also be submitted to disposal companies that are entitled to receive batteries on the basis of an authorisation granted under Article 10 of the Ordinance of 22 June 2005<sup>160</sup> on the Movement of Wastes, provided that these disposal companies agree to accept them.

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

<sup>1</sup> Traders who supply portable batteries must take back portable batteries from consumers free of charge at every sales point.

<sup>2</sup> Traders who supply automotive or industrial batteries must take back from consumers free of charge, at every sales point, those types of batteries which are stocked there.

<sup>3</sup> For the manufacturer, the obligations specified in paragraphs 1 and 2 exist vis-à-vis consumers, traders and operators of collection schemes or collection points.

## **6 Prepaid disposal fee and reporting obligation**

### **6.1 Liability for the fee**

<sup>1</sup> A prepaid disposal fee (fee) for batteries placed on the market (batteries subject to the fee) must be paid to an organisation appointed by the FOEN in accordance with Number 6.7 (organisation) by:

- a. manufacturers of batteries;
- b. manufacturers of vehicles or appliances which incorporate batteries, if these batteries are not already subject to the fee.

<sup>2</sup> Paragraph 1 letter b does not apply if third parties have assumed liability for the fee as specified in paragraph 1 and the reporting obligation as specified in Number 6.3 paragraph 1.

<sup>3</sup> On request, the organisation shall exempt manufacturers of automotive and industrial batteries and of vehicles and appliances incorporating automotive or industrial batteries from liability for the fee if they:

<sup>160</sup> SR 814.610

- a. on the basis of a sectoral solution or as a result of particular market condition, ensure environmentally sound disposal of the batteries and the covering of all disposal costs; and
- b. make a suitable contribution to the costs incurred by the organisation for exemption from the liability for the fee and reporting as specified in Number 6.3 paragraph 2.

## **6.2 Level of the fee**

<sup>1</sup> The level of the fee is based on the expected costs of the activities specified in Number 6.5. It shall be no less than CHF 0.10 and no more than CHF 7 per kilogram of batteries subject to the fee and at least CHF 0.03 per battery.

<sup>2</sup> The DETEC shall establish the level of the fee, review it each year and adjust it if necessary.

## **6.3 Reporting obligation**

<sup>1</sup> Those liable for the fee must report to the organisation, in accordance with its requirements, the quantity of batteries subject to the fee placed on the market, indicating in particular the types of batteries and the pollutant content. Reporting shall be carried out monthly, unless a different interval has been agreed with the organisation.

<sup>2</sup> Manufacturers who are exempt from liability for the fee in accordance with Number 6.1 paragraph 3 must provide the organisation each year by 31 March with information on the quantity of batteries placed on the market, indicating the types of batteries and the pollutant content. The organisation shall make available reporting forms in paper or electronic form. It shall forward the reports received to the FOEN in accordance with its requirements.

<sup>3</sup> Disposal companies that, by virtue of a licence issued under Article 10 of the Ordinance of 22 June 2005 on Movements of Waste, are entitled to accept batteries must provide the organisation each year by 30 April, in accordance with its requirements, with information on the quantities of batteries taken back in Switzerland and recycled by them or exported for disposal during the previous year.

## **6.4 Time of falling due and period for payment**

<sup>1</sup> The organisation shall submit an invoice to those liable for the fee. The fee falls due upon receipt of the invoice by those liable for the fee or, if the invoice is disputed, when the fee ruling as specified in Number 6.9 paragraph 2 becomes legally valid.

<sup>2</sup> Payment must be made within 30 days of the fee falling due. If payment is delayed, interest of 5% is payable on arrears; the organisation may pay interest on advance payments.

## 6.5 Use of the fee

The organisation may use the fee solely to finance the following activities:

- a. collection, transport and recycling of batteries, provided that these activities are carried out according to the state of the art;
- b. provision of information, in particular to improve the return rate for batteries, although no more than 25% of annual fee revenues may be used for this purpose;
- c. its own activities within the scope of its mandate from the FOEN;
- d. costs incurred by the FOEN in fulfilling the responsibilities specified in Numbers 6.7 and 6.8.

## 6.6 Payments to third parties

<sup>1</sup> Third parties claiming payments from the organisation for activities specified in Number 6.5 must submit a justified request by no later than 31 March of the following year. The organisation shall make application forms available in paper or electronic format.

<sup>2</sup> The organisation shall only make payments to third parties if they carry out the activities appropriately and cost-effectively. It may take the measures necessary to assess whether these conditions are met.

<sup>3</sup> The organisation shall only make payments for activities specified in Number 6.5 letters a and b within the limits of available resources.

## 6.7 Organisation

<sup>1</sup> The FOEN shall appoint a suitable private organisation to collect, administer and use the fee. The organisation must not itself carry out any business activities relating to the manufacture, import, sale or recycling of batteries.

<sup>2</sup> The FOEN shall conclude a contract with the organisation for a term of no more than five years. This contract shall specify in particular the proportion of fee revenues that the organisation may use for its own activities, as well as the conditions and consequences of premature termination of the contract.

<sup>3</sup> The organisation must appoint independent third parties as auditors. It must provide them with all the necessary information and allow them to examine its files.

<sup>4</sup> The organisation shall maintain commercial secrecy with regard to those liable to the fee and the disposal companies.

<sup>5</sup> The Federal Customs Administration may communicate to the organisation data from customs declarations and other observations relating to the import or export of batteries.

<sup>6</sup> The organisation may arrange with the Federal Customs Administration for the fee to be collected on import. In this case, collection, time of falling due and interest are governed by the relevant customs legislation.

## **6.8 Supervision of the organisation**

<sup>1</sup> The FOEN shall supervise the organisation. It may also issue instructions, in particular on the use of fee revenues.

<sup>2</sup> The organisation must provide the FOEN with the necessary information and allow it to examine its files.

<sup>3</sup> It must submit to the FOEN each year, by no later than 30 June, a report on its activities during the previous year. This report must include in particular:

- a. the annual accounts;
- b. the report by the independent third-party auditors;
- c. the quantity of batteries subject to the fee placed on the market in the previous year, indicating the types of batteries and the pollutant content, together with the return rate for batteries subject to the fee;
- d. a breakdown of the use of fee revenues by amount, purpose and recipient;
- e. the list of manufacturers exempt from liability for the fee in accordance with Number 6.1 paragraph 3.

<sup>4</sup> The FOEN shall publish the report while ensuring that commercial and manufacturing secrecy is maintained.

## **6.9 Procedures**

<sup>1</sup> The organisation shall decide on exemptions from liability for the fee and on requests for payments to third parties by means of rulings.

<sup>2</sup> In the event of a dispute concerning the invoice specified in Number 6.4 paragraph 1 sentence 1, it shall issue a fee ruling.

<sup>3</sup> The procedures are governed by the provisions on federal administrative justice.

## **7 Transitional provisions**

<sup>1</sup> The prohibition specified in Number 2 paragraph 1 does not apply to:

- a. button cells containing no more than 20g mercury per kilogram if they were first placed on the market before 1 March 2016;
- b. button cells containing no more than 20 g mercury per kilogram which are incorporated into appliances if the appliances were first placed on the market before 1 June 2016.

<sup>1bis</sup> The prohibition specified in Number 2 paragraph 2 does not apply to:

- a. portable batteries intended for use in hand-held, battery-powered tools intended for maintenance, construction or gardening activities, including those incorporated in such power tools, if the batteries were first placed on the market before 31 December 2016;
- b. other portable batteries, if they:
  1. are not incorporated into appliances and were first placed on the market before 1 February 2011,
  2. are incorporated into appliances and the appliances were first placed on the market before 1 October 2011.

<sup>2</sup> The requirements specified in Number 4.1 paragraph 1 do not apply to:

- a. batteries that were first placed on the market before 1 October 2011;
- b. batteries contained in vehicles or appliances and which were first placed on the market before 1 October 2011.

<sup>2bis</sup> The requirements specified in Number 4.1 paragraph 3 do not apply to automotive batteries and portable rechargeable batteries, or to vehicles or appliances containing such batteries, if they were first placed on the market before 1 July 2013.

<sup>3</sup> The liability for the fee specified in Number 6.1 does not apply to batteries weighing more than 5kg placed on the market before 1 January 2012.

*Annex 2.16*<sup>161</sup>  
(Art. 3)

## Special provisions relating to metals

### 1 Chromium(VI) in cements

#### 1.1 Principle

It is prohibited to place on the market or use cement and cement-containing preparations which contain, when hydrated, more than 0.0002% soluble chromium(VI) of the total dry mass of the cement.

#### 1.2 Exemptions

The prohibitions specified in Number 1.1 do not apply to placing on the market for, or use in, controlled closed and totally automated processes, and in processes in which cement and cement-containing preparations 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 cement-containing preparations which contain more than 0.0002% soluble chromium(VI) of the total dry mass of the cement must be labelled as follows: «Contains chromium(VI). May produce an allergic reaction».

<sup>2</sup> Paragraph 1 does not apply to cement or cement-containing preparations which are classified as sensitising in accordance with the criteria specified in Annex I to Regulation (EC) No 1272/2008<sup>162</sup> or in Part A of Annex II to Directive 1999/45/EC<sup>163</sup> and must be labelled with H317 in accordance with Annex III to Regulation (EC) No 1272/2008 or with R43 in accordance with Annex III to Directive 67/548/EEC<sup>164</sup>.

<sup>161</sup> Revised by No I 3 of the O of 15 Dec. 2006 (AS 2007 111), No I 6 of the O of 10 Dec. 2010 (AS 2011 113), No II para 3 of the O of 7 Nov. 2012 (AS 2012 6161), No II para. 2 of the O of 1 July 2015 (AS 2015 2367), No 1 of the FOEN Ordinance of 27 Oct. 2016 (AS 2016 4051) and No I of the O of 25 Oct. 2017, in force since 1 Jan. 2018 (AS 2017 5963). The correction of 20 June 2017 relates only to the French text (AS 2017 3541).

<sup>162</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No 1907/2006, OJ L 353, 31.12.2008, p. 1; last amended by Regulation (EU) No 618/2012, OJ L 179, 11.7.2012, p. 3.

<sup>163</sup> Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations, OJ L 200, 30.7.1999, p. 1; last amended by Regulation (EC) No 1272/2008, OJ L 353, 31.12.2008, p. 1.

<sup>164</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances, OJ L 196, 16.8.1967, p. 1; last amended by Directive 2009/2/EC, OJ L 11, 16.1.2009, p. 6.

<sup>3</sup> The packaging of cement or cement-containing preparations which contain reducing agents must be marked with the following information:

- a. the packing date;
- b. the storage conditions and storage period appropriate to keeping the content of soluble chromium(VI) below 0.0002% of the total dry mass of the cement.

<sup>4</sup> Paragraph 3 does not apply to placing on the market for uses specified in Number 1.2.

<sup>5</sup> The labelling must appear in at least two official languages and be clearly legible and indelible.

## **1<sup>bis</sup> Chromium(VI) in leather goods**

### **1<sup>bis</sup>.1 Definition**

Chromium-containing leather goods are articles which consist entirely or in part of leather, if the chromium(VI) content is 0.0003 per cent or more of the dry weight of the leather by mass.

### **1<sup>bis</sup>.2 Prohibition**

It is prohibited to place on the market chromium-containing leather goods which come into contact with the skin.

## **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 Prohibitions**

<sup>1</sup> It is prohibited for manufacturers to manufacture or place on the market cadmium-plated articles.

<sup>2</sup> For the placing on the market of electrical and electronic equipment, Annex 2.18 applies.

### 2.3 Exemptions

<sup>1</sup> The prohibition on placing on the market specified in Number 2.2 does not apply to:

- a. antiques;
- b. the import of articles which are only finished or repackaged in Switzerland and then re-exported in their entirety.

<sup>1bis</sup> The prohibitions on manufacture and placing on the market specified in Number 2.2 do not apply to components for electrical and electronic equipment for which it is specified in Annex 2.18 Numbers 3 and 8 that they may contain cadmium.

<sup>2</sup> If in the current state of the art no non-cadmium-plated substitute is available, and if the quantity of cadmium applied is no greater than is required for the article's intended use, the prohibitions specified in Number 2.2 do not apply to:

- a. aircraft, guided missiles, boat engines and their components;
- b. articles which, for reasons of operating safety, require both corrosion resistance and particular sliding properties;
- c. spare parts for cadmium-plated articles.

<sup>3</sup> On receipt of a justified request, with the agreement of the FOPH, the FOEN may grant exemptions for other articles if:

- a. in the current state of the art no non-cadmium-plated substitute is available; and
- b. the quantity of cadmium applied is no greater than is required for the article's intended use.

### 3 Cadmium in zinc-plated articles

<sup>1</sup> Manufacturers producing zinc-plated articles must ensure that the cadmium content of the zinc applied does not exceed 0.025% by mass.

<sup>2</sup> The value specified in paragraph 1 is deemed to be complied with if it is not exceeded by the cadmium content of the solution or molten mass used for plating.

<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 limit specified 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> For the placing on the market of vehicle materials and components, vehicles and electrical and electronic equipment and their spare parts, which contain zinc-plated components, Numbers 5, 7 paragraphs 2 and 3 and Annex 2.18 apply.

**3<sup>bis</sup> Cadmium in brazing fillers****3<sup>bis</sup>.1 Definition**

Brazing is a joining technique using alloys and undertaken at temperatures above 450° C.

**3<sup>bis</sup>.2 Prohibitions**

It is prohibited to manufacture or place on the market brazing fillers with a cadmium content of 0.01% or more by mass.

**3<sup>bis</sup>.3 Exemptions**

The prohibitions specified in Number 3<sup>bis</sup>.2 do not apply to brazing fillers used in defence and aerospace applications or used for safety reasons.

**3<sup>ter</sup> Lead and its compounds in articles for the general public****3<sup>ter</sup>.1 Definitions**

<sup>1</sup> An article that contains lead (CAS no 7439-92-1) or one of its compounds is deemed to contain lead if it, or an accessible part of it, has a lead content (in metal) of 0.05 per cent or more by mass.

<sup>2</sup> An article or an accessible part of it can be put into the mouth by children if the height, length or width is less than 5 cm or if the article or a part of it has a detachable or protruding part of that size.

**3<sup>ter</sup>.2 Prohibitions**

<sup>1</sup> The placing on the market of lead-containing articles intended for sale to the general public is prohibited if the articles or accessible parts thereof can be put into the mouth by children under normal or reasonably foreseeable conditions of use.

<sup>2</sup> For the placing on the market of packaging with articles treated with paints and varnishes, wood-based materials and electrical and electronic equipment that contain lead or compounds, Number 4 and Annexes 2.8, 2.17 and 2.18 apply.

**3<sup>ter</sup>.3 Relationship to the Foodstuffs and Utility Articles Ordinance of 16 December 2016<sup>165</sup> (FUAO)**

For the placing on the market of consumer articles, toys, jewellery and candle wicks containing lead or lead compounds, intended for sale to the general public and

<sup>165</sup> SR 817.02

which, or their accessible parts, can be put into the mouth by children under normal or reasonably foreseeable conditions of use, the FUAO applies.

### **3<sup>ter</sup>.4 Exemptions**

<sup>1</sup> Exempted from the prohibition specified in Number 3<sup>ter</sup>.2 are:

- a. crystal glass in accordance with Annex I (crystal glass types 1, 2, 3 and 4) under Directive 69/493/EEC<sup>166</sup>;
- b. non-synthetic or reconstituted precious or semi-precious stones (customs tariff number 7103), insofar as they are not treated with lead or lead compounds or preparations containing these substances;
- c. enamel, defined as vitrifiable mixtures from the melting, vitrification or sintering of minerals at temperatures of at least 500°C;
- d. keys and locks, including padlocks;
- e. musical instruments;
- f. articles and components of articles containing brass alloys provided that the lead content (in metal) in the brass does not exceed 0.5% by weight;
- g. tips of writing instruments;
- h. devotional objects;
- i. zinc-carbon portable batteries and button cells.

<sup>2</sup> In addition, exempted from the prohibition specified in Number 3<sup>ter</sup>.2 paragraph 1 are:

- a. uncoated lead-containing articles, if the release rate of lead from the article or accessible parts demonstrably does not exceed 005 µg/cm<sup>2</sup> per hour (corresponding to 0.05 µg/g/h);
- b. coated lead-containing articles, provided that they demonstrably do not exceed the release rate referred to in letter a and the coating is sufficient to ensure that this rate is not exceeded for a period of at least two years of use of the article under normal or reasonably foreseeable conditions.

## **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>166</sup> Council Directive 69/493/EEC of 15 December 1969 on the approximation of the laws of the Member States relating to crystal glass, OJ L 326 of 29.12.1969, p. 36; last amended by Directive 2006/96/EG, OJ L 363 of 20.12.2006, p. 81.

<sup>2</sup> Packaging and packaging components are products made of 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 100mg/kg.

## 4.3 Exemptions

<sup>1</sup> The prohibition specified in Number 4.2 does not apply to the following:

- a. packaging made entirely of lead crystal;
- b. glass packaging other than lead crystal, if exceedance of the heavy metal content specified in Number 4.2 is attributable to recycled materials and there is no intentional introduction of heavy metals during the manufacturing process;
- c. caps on bottles containing wine from before 1996;
- d. plastic crates or plastic pallets, if:
  1. exceedance of the heavy metal content specified in Number 4.2 is attributable to the recycling of plastic crates or plastic pallets,
  2. the material used for recycling originates only from other plastic crates or plastic pallets,
  3. the introduction of material other than that specified in Number 2 is limited to the minimum technically necessary and, in any case, does not exceed 20% by mass, and
  4. heavy metals were not intentionally introduced during recycling.

<sup>2</sup> On receipt of a justified request, with the agreement of the FOPH, the FOEN may grant exemptions for other packaging. It shall take account of decisions made by the European Commission in accordance with Article 11 paragraph 3 of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste<sup>167</sup>, and the current state of the art.

<sup>167</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).

## 5 Heavy metals in vehicles

### 5.1 Definition

Vehicles are cars and light duty vehicles in accordance with Directive 2000/53/EC<sup>168</sup>, covered by the categories M<sub>1</sub> or N<sub>1</sub> of Annex II A number 1 to Directive 2007/46/EC<sup>169</sup>.

### 5.2 Prohibitions

<sup>1</sup> It is prohibited to place on the market new vehicle materials and components which contain more than 0.1% by mass of lead, mercury or chromium(VI), or more than 0.01% by mass of cadmium per homogeneous material.

<sup>2</sup> It is also prohibited to place on the market new vehicles which contain materials or components as specified in paragraph 1.

### 5.3 Exemptions

<sup>1</sup> The prohibition specified in Number 5.2 paragraph 1 does not apply to:

- a. the vehicle materials and components listed without an exemption expiry date in Annex II to the Directive 2000/53/EC<sup>170</sup>, subject to the conditions stated in this Annex;
- b. spare parts for vehicles placed on the market for the first time before 1 August 2006, with the exception of:
  1. wheel balance weights,
  2. carbon brushes,
  3. brake linings.

<sup>2</sup> The prohibition specified in Number 5.2 paragraph 2 does not apply to vehicles which contain materials or components that may be placed on the market in accordance with Paragraph 1 letter a.

### 5.4 Special labelling

Vehicle materials and components must be labelled or made identifiable by other means in accordance with Annex II to Directive 2000/53/EC<sup>171</sup>.

<sup>168</sup> Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles, version in accordance with OJ L 269, 21.10.2000, p. 34.

<sup>169</sup> Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive), OJ L 263, 9.10.2007, p. 1; last amended by Commission Regulation (EU) 2015/45, OJ L 9, 15.1.2015, p. 1.

<sup>170</sup> Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles, OJ L 269, 21.10.2000, p. 34; last amended by Directive (EU) 2017/2096, OJ L 299, 16.11.2017, p. 24.

<sup>171</sup> See footnote to No 5.3 para. 1.

## 5.5 Adaptation of the exemptions and labelling

<sup>1</sup> On receipt of a justified request, with the agreement of the FOPH, the FOEN may adapt Number 5.3 paragraph 1, Number 5.4 and Number 7 paragraph 2 to the version of Annex II to Directive 2000/53/EC<sup>172</sup> in force.

<sup>2</sup> If the expiry date of an original material or component specified in Annex II to Directive 2000/53/EC is before 1 August 2006, the provision specified in Number 5.3 paragraph 1 letter b shall apply to placing it on the market as spare parts.

## 6 ...

## 7 Transitional provisions

<sup>1</sup> The prohibition specified in Number 1<sup>bis</sup>.2 does not apply to the placing on the market of chromium-containing leather goods which were supplied to end users for the first time before 1 September 2016.

<sup>1bis</sup> The prohibition specified in Number 3<sup>ter</sup>.2 paragraph 1 does not apply to articles that are placed on the market for the first time before 1 January 2019.

<sup>2</sup> The prohibition specified in Number 5.2 paragraph 1 does not apply to vehicles and components, if they are listed in Annex II to Directive 2000/53/EC<sup>173</sup> and were placed on the market for the first time within the dates specified in this Annex and under the conditions specified there.

<sup>3</sup> The prohibition specified in Number 5.2 paragraph 2 does not apply to vehicles placed on the market for the first time in Switzerland or a Member State of the EU or EFTA, which contain materials or components that may be placed on the market in accordance with Paragraph 2.

<sup>172</sup> See footnote to No 5.3 para. 1.

<sup>173</sup> See footnote to No 5.3 para. 1.

*Annex 2.1*<sup>174</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 chipboard and fibreboard 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 manufacturers to place on the market wood-based materials if the content by mass of the following substances exceeds the limit values listed below:

Substance	Limit value in milligrams per kilogram of dry matter
Arsenic (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 specified in 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, with the agreement of the FOPH, the FOEN may grant exemptions to the prohibitions specified in Number 2 if:

- a. the exceedance of limit values is not due to the secondary raw material; and
- b. the quantity of listed substances contained in wood-based materials is no greater than is technically required for manufacture or necessary for the intended use.

<sup>174</sup> Revised by No I of the O of 13 Feb. 2008, in force since 1 March 2008 (AS 2008 561).

#### **4 Transitional provision**

The prohibitions specified in Number 2 come into force on 1 August 2006.

*Annex 2.18*<sup>175</sup>  
(Art. 3)

## Electrical and electronic equipment

### 1 Definitions

<sup>1</sup> *Electrical and electronic equipment* means equipment as defined in Article 3 point 1 in conjunction with point 2 of Directive 2011/65/EU<sup>176</sup>, if it falls within the categories listed in Annex I to this Directive.

<sup>2</sup> *Cables* means all cables with a rated voltage of less than 250 volts that serve as a connection or an extension to connect electrical or electronic equipment to the electrical outlet or to connect two or more items of electrical or electronic equipment to each other.

<sup>3</sup> *Spare part* means a separate part of an item of electrical or electronic equipment that can replace a part of an item of electrical or electronic equipment. The electrical or electronic equipment cannot function as intended without that part. A spare part serves to restore or upgrade the functionality of the electrical or electronic equipment, to upgrade its capacity or to update its functionalities.

<sup>4</sup> *Homogeneous material* means one material of uniform composition throughout or a material consisting of a combination of materials that cannot be disjointed or separated into different materials by mechanical actions such as unscrewing, cutting, crushing, grinding or abrasive processes.

<sup>5</sup> In this Annex, *manufacturer* means any natural or legal person who manufactures electrical or electronic equipment, or who has it designed or manufactured, and markets it under his name or trademark.

<sup>6</sup> An importer who markets electrical or electronic equipment under his name or trademark or modifies equipment in such a way that compliance with the requirements specified in Number 2 may be affected shall be considered a manufacturer. This also applies to a trader as defined in Article 2 letter b if he markets electrical or electronic equipment under his name or trademark.

### 2 Prohibitions

<sup>1</sup> It is prohibited to place on the market electrical and electronic equipment, cables or spare parts if the concentration by mass of the following substances listed in An-

<sup>175</sup> Inserted by No II para. 1 of the O of 7 Nov. 2012 (AS **2012** 6161). Revised by No II para. 2 of the O of 1 July 2015 (AS **2015** 2367) and No I of the FOEN Ordinance of 27 Oct. 2016, in force since 1 Dec. 2016 (AS **2016** 4051).

<sup>176</sup> Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment, OJ L 174, 1.7.2011, p. 88.

nex II to Directive 2011/65/EU<sup>177</sup> exceeds the specified maximum concentration value in the homogeneous material:

No	Substances	Maximum concentration values (by mass)
1.	Lead	0.1%
2.	Mercury	0.1%
3.	Cadmium	0.01%
4.	Hexavalent chromium	0.1%
5.	Polybrominated biphenyls	0.1%
6.	Polybrominated diphenyl ethers	0.1%
7.	di-(2-ethylhexyl) phthalate (DEHP) CAS no: 117-81-7	0.1%
8.	Benzyl butyl phthalate (BBP) CAS no: 85-68-7	0.1%
9.	Dibutyl phthalate (DBP) CAS no: 84-74-2	0.1%
10.	Diisobutyl phthalate (DIBP) CAS no: 84-69-5	0.1%

<sup>2</sup> For compliance with the maximum concentration values specified in paragraph 1, the technical rules specified in Article 4 paragraph 2 sentence 2 of Directive 2011/65/EU apply.

### 3 Exemptions

<sup>1</sup> Without prejudice to paragraph 2, the prohibitions specified in Number 2 do not apply to:

- a. equipment which is necessary for the protection of the essential interests of the security of Switzerland, including arms, munitions and war material intended for specifically military purposes;
- b. equipment, large-scale tools, large-scale installations, means of transport, machinery, devices and photovoltaic panels referred to in Article 2 paragraph 4 letters b–j of Directive 2011/65/EU<sup>178</sup> in accordance with the definitions given in Article 3 of the Directive;
- c. electrical and electronic equipment, cables and spare parts which contain substances included in Annexes III and IV to Directive 2011/65/EU<sup>179</sup> in the applications listed therein.

<sup>177</sup> Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment, OJ L 174, 1.7.2011, p. 88.; last amended by Commission Delegated Directive (EU) 2016/129, OJ L 168, 25.6.2016, p. 15.

<sup>178</sup> See footnote to No 1 para. 1.

<sup>179</sup> See footnote to No 2 para. 1.

<sup>2</sup> Paragraph 1 letters a and b do not apply to equipment, large-scale tools, large-scale installations, means of transport, machinery, devices or photovoltaic panels which contain hexabromobiphenyl or polybrominated diphenyl ethers, with the exception of decabromodiphenyl ether.

## **4 Requirements for economic operators**

### **4.1 Obligations of the manufacturer**

<sup>1</sup> Without prejudice to Numbers 3 and 8, the manufacturer placing electrical and electronic equipment on the market must ensure that it has been designed and manufactured in accordance with the requirements specified in Number 2.

<sup>2</sup> The manufacturer must draw up the required technical documentation; he must carry out the internal production control procedure in line with module A of Annex II to Decision No 768/2008/EC<sup>180</sup> or have it carried out.

<sup>3</sup> Where compliance of electrical or electronic equipment with the requirements specified in Number 2 has been demonstrated by the procedure referred to in paragraph 2, the manufacturer shall draw up a declaration of conformity in accordance with paragraph 4. Where other Swiss or EU legislation requires the application of a conformity assessment procedure which is at least as stringent, compliance with the requirements of Number 2 may be demonstrated within the context of that procedure. A single technical documentation may be drawn up.

<sup>4</sup> The declaration of conformity shall have the model structure and shall contain the elements specified in Annex VI to Directive 2011/65/EU<sup>181</sup> and shall be updated. It must be written in an official language of Switzerland or in English.

<sup>5</sup> The manufacturer must ensure that procedures are in place to ensure that, with series production, the requirements specified in this Annex are complied with. Changes in product design or characteristics and changes in the harmonised standards or in technical specifications by reference to which conformity of the electrical or electronic equipment is declared shall be adequately taken into account.

<sup>6</sup> The manufacturer must keep the technical documentation and the declaration of conformity for 10 years after the electrical or electronic equipment has been placed on the market.

<sup>7</sup> The manufacturer of electrical or electronic equipment must also ensure that:

- a. the equipment bears a type, batch or serial number or other element allowing its identification, or, where the size or nature of the equipment does not allow it, that the required information is provided on the packaging or in a document accompanying the equipment;
- b. his name, registered trade name or registered trade mark and the address at which he can be contacted is indicated on the equipment or, where that is not

<sup>180</sup> Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC, OJ L 218, 13.8.2008, p. 82.

<sup>181</sup> See footnote to No 1 para. 1.

possible, on its packaging or in a document accompanying the equipment. The address must indicate a single point at which the manufacturer can be contacted.

<sup>8</sup> A manufacturer who considers or has reason to believe that electrical or electronic equipment which he has placed on the market does not comply with the requirements specified in this Annex must immediately take the necessary corrective measures to bring that equipment into conformity, or, if appropriate, to withdraw it or recall it; he must immediately inform the competent cantonal authority to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

<sup>9</sup> The obligations of the manufacturer specified in paragraphs 1–8 do not apply to equipment, large-scale tools, large-scale installations, means of transport, machinery, devices or photovoltaic panels as specified in Number 3 paragraph 1 letters a and b, or to equipment covered by the transitional provisions specified in Number 8.

## 4.2 Obligations of the importer

<sup>1</sup> The importer may only place on the market electrical or electronic equipment which, without prejudice to Numbers 3 and 8, complies with the requirements specified in Number 2.

<sup>2</sup> Before placing electrical or electronic equipment on the market, the importer must ensure that:

- a. the appropriate conformity assessment procedure has been carried out by the manufacturer;
- b. the manufacturer has drawn up the technical documentation;
- c. the manufacturer has complied with the requirements specified in Number 4.1 paragraph 7 letter a.

<sup>3</sup> The importer must indicate his name, registered trade name or registered trade mark and the address at which he can be contacted on the electrical or electronic equipment or, where that is not possible, on its packaging or in a document accompanying the equipment. If the equipment is imported from a Member State of the European Union (EU) or the European Free Trade Association (EFTA), the name, trade name or trade mark and contact address of the party responsible for placing the equipment on the market in the EU or EFTA may be indicated.

<sup>4</sup> The importer must keep, for 10 years following the placing on the market of the electrical or electronic equipment, a copy of the EU declaration of conformity in accordance with Article 13 of Directive 2011/65/EU at the disposal of the competent cantonal authority and ensure that the technical documentation can be made available to this authority, upon request.

<sup>5</sup> An importer who considers or has reason to believe that electrical or electronic equipment, without prejudice to Numbers 3 and 8, does not comply with the requirements specified in Number 2, must not place the equipment on the market until

it has been brought into conformity; he must inform the manufacturer and the competent cantonal authority to that effect.

<sup>6</sup> An importer who considers or has reason to believe that electrical or electronic equipment which he has placed on the market is not in conformity with this Annex must immediately take the necessary corrective measures to bring that equipment into conformity, to withdraw it or recall it, if appropriate; he must immediately inform the competent cantonal authority to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

<sup>7</sup> The obligations of the importer specified in paragraphs 1–6 do not apply to equipment, large-scale tools, large-scale installations, means of transport, machinery, devices or photovoltaic panels as specified in Number 3 paragraph 1 letters a and b, or to equipment covered by the transitional provisions specified in Number 8.

### 4.3 Obligations of the trader

<sup>1</sup> When making electrical or electronic equipment available on the market, traders must act with due care in relation to the requirements of this Annex, in particular by verifying that the manufacturer and the importer have complied with the requirements specified in Number 4.1 paragraph 7 and in Number 4.2 paragraph 3.

<sup>2</sup> A trader who considers or has reason to believe that electrical or electronic equipment, without prejudice to Numbers 3 and 8, does not comply with the requirements specified in Number 2, must not make the equipment available on the market until it has been brought into conformity; he must inform the manufacturer or the importer and the competent cantonal authority to that effect.

<sup>3</sup> A trader who considers or has reason to believe that electrical or electronic equipment which he has placed on the market is not in conformity with this Annex must ensure that the corrective measures necessary to bring that equipment into conformity, to withdraw it or recall it, as appropriate, are taken; he must immediately inform the competent cantonal authority to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

## 5 Presumption of conformity

<sup>1</sup> In the absence of evidence to the contrary, the competent cantonal authorities shall presume that electrical and electronic equipment for which a declaration of conformity can be made available complies with the requirements of this Annex.

<sup>2</sup> Materials, components and electrical and electronic equipment shall be presumed to comply with the requirements of this Annex if:

- a. tests and measurements demonstrating compliance with the requirements of Number 2 have been performed on them; or
- b. they have been assessed in accordance with harmonised standards, the references of which have been published in the Official Journal of the European Union.

## 6 Responsibilities of the Federal Office for the Environment (FOEN)

<sup>1</sup> The FOEN, with the agreement of the Federal Office of Public Health (FOPH) and SECO, shall adapt the provisions of this Annex as follows:

- a. Number 2 in accordance with amendments of Annex II to Directive 2011/65/EU<sup>182</sup>;
- b. Number 3 paragraph 1 letter c in accordance with the currently applicable version of Annexes III and IV to Directive 2011/65/EU.

<sup>2</sup> The FOEN shall publish in the Federal Gazette the titles of the harmonised standards referred to in Number 5 paragraph 2 letter b, also indicating the references or where the standards may be obtained.

## 7 Batteries

For batteries in electrical and electronic equipment, Annex 2.15 applies.

## 8 Transitional provisions

<sup>1</sup> The prohibitions specified in Number 2, para. 1, No 1 to 6 do not apply:

- a. to the following equipment first placed on the market in Switzerland or a Member State of the European Union (EU) or the European Free Trade Association (EFTA) before the dates specified:

Equipment	Date
medical devices	22 July 2014
monitoring and control instruments	22 July 2014
in vitro diagnostic medical devices	22 July 2016
industrial monitoring and control instruments	22 July 2017
equipment not falling within the scope of Directive 2002/95/EC <sup>183</sup> and which would not comply with the requirements of Directive 2011/65/EU <sup>184</sup> (Art. 2 para. 2 Directive 2011/65/EU)	22 July 2019

- b. to other electrical and electronic equipment first placed on the market in Switzerland or a Member State of the European Union (EU) or the European Free Trade Association (EFTA) before 1 July 2006.

<sup>182</sup> See footnote to No 1 para. 1.

<sup>183</sup> 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, OJ L 37, 13.2.2003, p. 19; last amended by Decision 2011/534/EU, OJ L 234, 10.9.2011, p. 44; repealed by Directive 2011/65/EU, OJ L 174, 1.7.2011, p. 88.

<sup>184</sup> See footnote to No 1 para. 1.

- <sup>2</sup> The prohibitions specified in Number 2, para. 1, No 7 to 10 do not apply:
- a. to medical devices, monitoring and control instruments, in vitro diagnostic medical devices, industrial monitoring and control instruments first placed on the market in Switzerland or a Member State of the European Union (EU) or the European Free Trade Association (EFTA) before 22 July 2021;
  - b. to other electrical and electronic equipment first placed on the market in Switzerland or a Member State of the European Union (EU) or the European Free Trade Association (EFTA) before 22 July 2019.
- <sup>3</sup> The prohibitions specified in Number 2 do not apply to cables or spare parts for electrical and electronic equipment which:
- a. was placed on the market as specified in paragraphs 1 and 2; or
  - b. contains substances in applications which benefited from an exemption under Annexes III and IV to Directive 2011/65/EU, and which was first placed on the market in Switzerland or a Member State of the European Union (EU) or the European Free Trade Association (EFTA) before that exemption expired, if in this equipment the components affected by the exemption are replaced.
- <sup>4</sup> The prohibitions specified in Number 2 also do not apply to reused spare parts, recovered from electrical and electronic equipment placed on the market before 1 July 2006 and used in equipment first placed on the market in Switzerland or a Member State of the European Union (EU) or the European Free Trade Association (EFTA) before 1 July 2016, provided that reuse takes place in auditable closed-loop business-to-business return systems, and that the reuse of parts is notified to the consumer.
- <sup>5</sup> Paragraphs 1 let. a, 3 and 4 do not apply to electrical and electronic equipment, cables or spare parts which contain hexabromobiphenyl or polybrominated diphenyl ethers, with the exception of decabromodiphenyl ether.