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Federal Act on the Reduction of CO₂ Emissions (CO₂ Act)

of 23 December 2011 (Status as of 1 January 2013)

The Federal Assembly of the Swiss Confederation,

on the basis of Articles 74 and 89 of the Federal Constitution¹

and having considered the Federal Council Dispatches dated 26 August 2009²
and 20 January 2010³,

decrees:

Chapter 1: General Provisions

Art. 1 Aim

¹ This Act is intended to reduce greenhouse gas emissions and in particular CO₂ emissions that are attributable to the use of fossil fuels (thermal and motor fuels) as energy sources with the aim of contributing to limiting the global rise in temperature to less than 2 degrees Celsius.

² The Federal Council designates the greenhouse gases.

Art. 2 Definitions

¹ Thermal fuels are fossil fuels used for the generation of heat, the production of light, the production of electricity in thermal facilities or the operation of combined heat and power plants.

² Motor fuels are fossil fuels used in combustion engines to produce power.

³ Emission allowances are tradable rights to emit greenhouse gases allocated by the Confederation or by states with emissions trading schemes recognised by the Federal Council.

⁴ Emission reduction certificates are internationally recognised tradable documents attesting to reductions in emissions achieved abroad.

AS 2000 979

¹ SR 101

² BBI 2009 7433

³ BBI 2010 973

Art. 3 Reduction target

¹ Domestic greenhouse gas emissions must be reduced overall by 20 per cent as compared with 1990 levels, by 2020. The Federal Council may set sector-specific interim targets.

² The Federal Council may increase the reduction target to 40 per cent in order to comply with international agreements. A maximum of 75 per cent of the additional reductions in greenhouse gas emissions may be achieved through measures carried out abroad.

³ The total volume of greenhouse gas emissions is calculated on the basis of the greenhouse gases emitted in Switzerland. Emissions from the use of aviation fuel on international flights are not taken into account.

⁴ The Federal Council may set reduction targets for individual economic sectors by agreement with the parties concerned.

⁵ It shall at the due time submit proposals to the Federal Assembly on the reduction targets for the period after 2020. It shall consult the parties concerned beforehand.

Art. 4 Measures

¹ The reduction target should in the first instance be achieved through measures under this Act.

² Measures that reduce greenhouse gas emissions in accordance with other legislation should also contribute to achieving the reduction target. These measures in particular include those in the fields of environment and energy, agriculture, forestry and timber industry, road traffic and the taxation of mineral oil, as well as voluntary measures.

³ Voluntary measures also include undertakings by consumers of fossil thermal and motor fuels voluntarily to limit their CO₂ emissions.

⁴ The Federal Council may assign suitable organisations to support and carry out voluntary measures.

Art. 5 Counting emission reductions achieved abroad

¹ The Federal Council may take appropriate account of reductions in greenhouse gas emissions that have been achieved abroad when calculating emissions under this Act.

Art. 6 Quality requirements for reductions in emissions abroad

¹ The Federal Council specifies quality requirements for measures to reduce greenhouse gas emissions carried out abroad. Measures that do not meet these requirements are not considered emission reductions.

² The quality requirements must satisfy the following quality criteria in particular:

- a. reductions may only be counted if they would not have been achieved without support from Switzerland;

- b. reductions in developing countries must contribute to sustainable development in those countries and must not have negative social or ecological impacts.

Art. 7 Attestations for domestic emission reductions

¹ The Federal Council or the competent department issues documents attesting reductions in greenhouse gas emissions achieved voluntarily in Switzerland.

² It specifies the extent to which these attestations are considered equivalent to emission allowances or emission reduction certificates.

Art. 8 Coordination of adaptation measures

¹ The Confederation coordinates the measures to avoid or deal with the harm to persons or damage to property of substantial value that may be caused by the increased concentration of greenhouse gases in the atmosphere.

² It is responsible for devising and obtaining the basic knowledge necessary for these measures.

Chapter 2: Technical Measures to reduce CO₂ Emissions

Section 1: Buildings

Art. 9

¹ The cantons ensure that the CO₂ emissions from buildings that are heated with fossil fuels are reduced in compliance with the targets. Accordingly, they issue building standards for new and older buildings based on the current state of the art.

² The cantons submit a report each year to the Confederation on the measures taken.

Section 2: Passenger Cars

Art. 10 Principle

¹ The CO₂ emissions from passenger cars that are registered for the first time (passenger cars) must be reduced to an average of 130 g CO₂/km by the end of 2015.

² The Federal Council shall submit a report to the Federal Assembly for the first time in 2016 and every three years thereafter on the extent to which the target specified in paragraph 1 has been achieved.

³ It shall at the due time submit to the Federal Assembly for a further reduction in CO₂ emissions from passenger cars for the period after 2015. In doing so, it considers the regulations of the European Union.

Art. 11 Individual target

¹ The Federal Council shall establish a method for calculating for each importer or manufacturer an individual target for the average CO₂ emissions from passenger cars imported into or manufactured in Switzerland. The calculation relates to the passenger cars of the importer or manufacturer first registered in the reference year (the passenger car fleet).

² In determining the calculation method, the Federal Council takes account of the following in particular:

- a. the properties of the passenger cars imported into or manufactured in Switzerland such as unladen weight, pan area or ecological innovations;
- b. the regulations of the European Union.

³ Importers and manufacturers may agree to form emissions pools. In such a case, the individual target for the passenger car fleet is calculated for each emissions pool.

⁴ In the case of importers and manufacturers that import or manufacture fewer than 50 passenger cars a year, the individual target are determined for each passenger car on the basis of the calculation method specified in paragraph 1.

Art. 12 Calculation of the individual target and the average CO₂ emissions

¹ At the end of each year, the Swiss Federal Office of Energy calculates for each importer or manufacturer or for each emissions pool:

- a. the individual target as specified in Article 11 paragraph 1;
- b. the average CO₂ emissions of the relevant passenger car fleet.

² The Federal Council specifies the data that importers or manufacturers must provide for the calculations specified in paragraph 1 for passenger cars with no type approval. It may set a flat rate emission value for the calculation specified in paragraph 1 letter b if the data is not submitted by a certain deadline.

³ To calculate the average CO₂ emissions for the years 2013 and 2014, the following percentages of the passenger car fleet with the lowest CO₂ emissions are taken into account:

- a. for the year 2013: 75 per cent;
- b. for the year 2014: 80 per cent.

⁴ The Federal Council may specify the extent to which special account may be taken of passenger cars with very low CO₂ emissions when making the calculation specified in paragraph 1 letter b.

Art. 13 Penalty for exceeding the individual target

¹ If the average CO₂ emissions from the passenger car fleet of an importer or manufacturer or of an emissions pool exceed the individual target, the manufacturer, the importer or the emissions pool must pay the Confederation the following amounts for each passenger car registered for the first time in the relevant calendar year:

- a. for 2013–2018:
 1. for the first gram of CO₂/km over the individual target: 7.50 francs,
 2. for the second gram of CO₂/km over the individual target: 22.50 francs,
 3. for the third gram of CO₂/km over the individual target: 37.50 francs,
 4. for the fourth and every further gram of CO₂/km over the individual target: 142.50 francs;
- b. from 1 January 2019: for each gram of CO₂/km over the individual target 142.50 francs.

² For importers and manufacturers that import or manufacture fewer than 50 passenger cars a year, the amounts specified in paragraph 1 apply to each passenger car. For 2013 and 2014 the amounts are multiplied by the percentages specified in Article 12 paragraph 3.

³ The members of emissions pools are jointly and severally liable.

⁴ In addition, Articles 10 and 11 of the Mineral Oil Tax Act of 21 June 1996⁴ apply by analogy.

⁵ The Federal Council may provide that the sales documentation for passenger cars indicates the amount which would have to be paid in accordance with paragraphs 1 and 2 if the sanction were fixed on the basis of the CO₂ emissions of the individual passenger car.

Chapter 3: Sinks

Art. 14

Timber used in construction may be counted as a carbon sink.

Chapter 3: Emissions Trading and Compensation

Section 1: Emissions Trading Scheme (ETS)

Art. 15 Participation by application

¹ Companies from specific economic sectors that operate installations with high or moderate greenhouse gas emissions may apply to participate in the emissions trading scheme.

² Each year the companies must surrender to the Confederation emission allowances or emission reduction certificates equal to the emissions caused by these installations. The Federal Council determines the extent to which emission reduction certificates may be surrendered. In doing so, it considers comparable international regulations.

⁴ SR 641.61

³ The Federal Council designates the economic sectors. In doing so, it takes account of:

- a. the correlation between the CO₂ levy burden and the value added by the relevant economic sector;
- b. the extent to which the CO₂ levy adversely affects the international competitiveness of the relevant economic sector.

Art. 16 Obligation to participate

¹ The Federal Council may require companies in specific categories that operate installations with high greenhouse gas emissions to participate in the emissions trading scheme.

² Each year these companies must surrender to the Confederation emission allowances or emission reduction certificates equal to the emissions caused by these installations.

³ The Federal Council determines the categories of companies.

Art. 17 Exemption from the CO₂ levy

Companies under Articles 15 and 16 (ETS companies) are refunded the CO₂ levy on thermal fuels.

Art. 18 Determining the quantity of emission allowances

¹ The Federal Council determines in advance the quantity of emission allowances to be made available each year until 2020. In doing so, it takes account of the reduction target in accordance with Article 3.

² It retains an appropriate number of emission allowances each year in order to make these available to new participants in the emissions trading scheme.

Art. 19 Allocation of emission allowances

¹ The emission allowances are allocated annually.

² They are allocated free of charge to the extent that they are required for the greenhouse gas efficient operation of ETS companies. The other emission allowances are auctioned off.

³ The Federal Council regulates the details and in doing so considers comparable international regulations.

Art. 20 Reporting

The ETS companies must submit annual greenhouse gas emission reports to the Confederation.

Art. 21 Penalty for failure to surrender emission allowances and emission reduction certificates

¹ The ETS companies must pay the Confederation the sum of 125 francs per tonne CO₂ equivalent (CO₂eq) for emissions that are neither covered by emission allowances nor, if permitted, by emission reduction certificates.

² The missing emission allowances or emission reduction certificates must be surrendered to the Confederation in the following year.

Section 2:
Compensation in the case of Fossil-Fuel Thermal Power Plants

Art. 22 Principle

¹ Fossil-fuel thermal power plants (power plants) may be constructed and operated only if their operators provide the Confederation with a commitment:

- a. to compensate in full for the CO₂ emissions caused; and
- b. to operate the power plant according to the current state of the art. The Federal Council specifies the minimum overall efficiency level that must be guaranteed.

² No more than 50 per cent of the CO₂ emissions may be compensated for through emission reduction certificates.

³ The Federal Council may take account of investments in renewable energies in Switzerland as compensation measures.

⁴ Power plants are installations that use fossil fuels to generate either electricity alone or electricity and heat at the same time. Installations are included in the second category if they:

- a. are primarily designed for the production of electricity; or
- b. are primarily designed to produce heat and have a total output of over 100 megawatts.

Art. 23 Compensation contract

¹ The details of the formal commitment in accordance with Article 22 are governed by a contract between the power plant operator and the Confederation.

² The contract may not be revised during the authorisation procedure for power plants.

Art. 24 Contractual penalty for non-compliance with the commitment

¹ Any person who fails to meet the compensation obligation shall pay a contractual penalty to the Confederation as specified in the contract.

² The amount of the contractual penalty is determined by the estimated value of the compensation not provided.

Art. 25 Exemption from the CO₂ levy

The power plants are refunded the CO₂ levy on thermal fuels that they have paid.

Section 3: Compensation in the case of Motor Fuels

Art. 26 Principle

¹ Any person who in accordance with the Mineral Oil Tax Act of 21 June 1996⁵ releases motor fuels for consumption must compensate for part of the CO₂ emissions that are attributable to the use of the motor fuels as energy source.

² The Federal Council after consulting the sector sets the compensation rate at between 5 and 40 per cent based on the extent to which the reduction target specified in Article 3 has been achieved and decides on the extent of domestic compensation measures.

³ The permitted compensation surcharge on motor fuels amounts to a maximum of 5 centimes per litre.

⁴ The Federal Council may exempt the release for free circulation of minor quantities of motor fuel from the duty to provide compensation.

Art. 27 Obligation to compensate

Persons liable to pay tax under the Mineral Oil Tax Act of 21 June 1996⁶ are obliged to compensate. They may agree to form compensation pools.

Art. 28 Penalty for failure to compensate

¹ Any person who fails to fulfil an obligation to compensate must pay the Confederation the sum of 160 francs for each uncompensated tonne of CO₂.

² The missing emission reduction certificates must be surrendered to the Confederation in the following year.

Chapter 5: CO₂ Levy

Art. 29 CO₂ levy on thermal fuels

¹ The Confederation imposes a CO₂ levy on the production, extraction and import of thermal fuels.

⁵ SR 641.61

⁶ SR 641.61

² The rate of the levy amounts to 36 francs per tonne of CO₂. The Federal Council may increase the rate to a maximum of 120 francs if the interim targets set for the thermal fuels in accordance with Article 3 are not met.

Art. 30 Levy liability

The following are liable to pay the levy:

- a. levy on coal: persons required to declare imports under the Customs Act of 18 March 2005⁷ as well as domestic manufacturers and producers;
- b. levy on other fossil fuels: persons liable to pay the mineral oil tax in accordance with the Mineral Oil Tax Act of 21 June 1996⁸.

Art. 31 Refund of the CO₂ levy

¹ On application, the following are refunded:

- a. the CO₂ levy on thermal and motor fuels to persons who prove that they have not used thermal fuels or motor fuels to produce energy;
- b. the CO₂ levy on thermal fuels to companies in specific economic sectors, provided that they commit to the Confederation to reduce greenhouse gas emissions by a specific amount by 2020 and to submit an annual report on their efforts.

² The Federal Council designates the economic sectors. In doing so, it takes account of:

- a. the correlation between the CO₂ levy burden and the value added to the relevant economic sector;
- b. the extent to which the CO₂ levy adversely affects the international competitiveness of the relevant economic sector.

³ The scope of the commitment to reduce greenhouse gas emissions is determined in particular by:

- a. the average greenhouse gas emissions allowed for the years 2008–2012;
- b. the reduction target in accordance with Article 3.

⁴ The Federal Council determines the extent to which companies may fulfil their formal commitments by surrendering emission reduction certificates.

⁵ At the company's request, the Confederation may also take account of emission reductions achieved through product improvements outside the company's own production plants.

⁶ The Federal Council may decide not to issue a refund if the cost of doing so is unreasonable given the amount involved.

⁷ SR 631.0

⁸ SR 641.61

Art. 32 Penalty for failure to meet the commitment

¹ Companies specified in Article 31 paragraph 1 letter b that do not meet their commitment to the Confederation must pay the Confederation the sum of 125 francs for each excess tonne of CO₂eq emitted.

² For the excess tonnes CO₂eq emitted, emission reduction certificates must be surrendered to the Confederation in the following year.

Art. 33 Procedure

¹ The procedural provisions of the mineral oil tax legislation apply to the collection and refund of the CO₂ levy, subject to paragraph 2.

² The procedural provisions of the customs legislation apply to the import and export of coal.

Chapter 6: Use of the Revenues**Art. 34** Reduction of CO₂ emissions from buildings

¹ A third of the revenue from the CO₂ levy, but no more than 300 million francs per year, is used to finance measures to reduce CO₂ emissions from buildings. Subject to this limit, the Confederation grants the cantons global financial assistance for:

- a. the energy-efficient renovation of existing heated buildings;
- b. the promotion of renewable energy sources, waste heat recovery and improvement of building equipment up to no more than a third of the earmarked revenues per year.

² The Confederation grants financial assistance:

- a. for measures specified in paragraph 1 letter a: on the basis of a programme agreement with the cantons that guarantee harmonised implementation;
- b. for measures in accordance with paragraph 1 letter b: within the framework of the global contributions in accordance with Article 15 of the Energy Act of 26 June 1998⁹.

³ The level of financial assistance is governed by the effectiveness of the measures.

⁴ Financial assistance to the cantons is permitted until the end of 2019. In 2015 the Federal Council shall submit a report to the Federal Assembly on the effectiveness of the financial assistance.

Art. 35 Promotion of technologies for reducing greenhouse gases

¹ A maximum of 25 million francs per annum is allocated from CO₂ levy revenues to the Technology Fund in order to finance loan guarantees.

⁹ SR 730.0

² The Technology Fund is managed by the Federal Department of the Environment, Transport, Energy and Communications.

³ The money in the Technology Fund is used by the Confederation to guarantee loans to companies for developing and marketing equipment and processes to:

- a. reduce greenhouse gas emissions;
- b. facilitate the use of renewable energies; or
- c. encourage the economical use of natural resources.

⁴ The loan guarantees are granted for a maximum term of 10 years.

Art. 36 Distribution to the public and to the private sector

¹ The remaining revenue from the CO₂ levy is redistributed to the general public and the business community in proportion to their original payments.

² The portion due to the public is distributed uniformly to all natural persons. The Federal Council regulates the details and procedure for distribution. It may commission the cantons, public corporations or private individuals to carry out the distribution in return for appropriate remuneration.

³ The portion due to the business community is distributed to employers via the compensation funds of the Federal Old Age and Survivors' Insurance (Art. 5 Federal Act of 20 Dec. 1946¹⁰ on the Old Age and Survivors Insurance; OASIA) in proportion to the employees' qualifying salary for OASI. The compensation offices receive appropriate remuneration for this task.

Art. 37 Allocation of penalty revenues to the infrastructure fund

The revenues from the penalty under Article 13 are allocated to the infrastructure fund.

Art. 38 Calculation of revenues

The revenues are calculated by deducting the implementation costs from the income including interest.

Chapter 7: Enforcement and Promotion

Art. 39 Enforcement

¹ The Federal Council enforces this Act and issues the implementing provisions. Before doing so, it consults the cantons and interested groups.

² For specific tasks, the Federal Council may call on the services of the cantons or private organisations.

¹⁰ SR 831.10

³ It regulates the sanctions procedure.

⁴ The Federal Office for the Environment is responsible for the assessment of matters relating to climate protection.

Art. 40 Evaluation

¹ The Federal Council periodically evaluates:

- a. the effectiveness of the measures under this Act;
- b. the necessity of additional measures.

² In doing so, it also considers climate-relevant factors such as demographic, economic and traffic growth.

³ It bases its assessment on statistical surveys.

⁴ It submits regular reports to the Federal Assembly.

Art. 41 Basic and advanced training

¹ The Confederation, in cooperation with the cantons, promotes the basic and advanced training of persons assigned duties under this Act.

² The authorities inform the general public about precautionary measures relating to climate protection and advise communes, companies and consumers on measures to reduce CO₂ emissions.

Chapter 8: Criminal Provisions

Art. 42 Evasion of the CO₂ levy

¹ Any person who wilfully obtains for himself or for another an unlawful advantage with regard to the levy, in particular by evading the CO₂ levy or by obtaining an unlawful exemption from or distribution or refund of the levy, is liable to a fine not exceeding three times the amount of the unlawful advantage.

² Attempts and complicity are offences.

³ Any person who obtains for himself or for another an unlawful advantage with regard to the levy through negligence is liable to a fine not exceeding the amount of the unlawful advantage.

Art. 43 Prejudicing the collection of the CO₂ levy

¹ Unless the offence carries a higher penalty under another provision, a fine may be imposed on any person who, whether wilfully or through negligence:

- a. unlawfully fails to register as a person liable to pay the levy;
- b. fails to keep, prepare, retain or file accounts, receipts, business documents and other required records in the proper manner, or fails to comply with his duty to provide information;

- c. in an application for an exemption from, or distribution or refund of the levy, or in its capacity as a legal entity obliged to provide information, makes untrue statements, conceals important facts or presents false documentary evidence about such facts;
- d. fails to declare data or objects relevant for the levy, or declares them incorrectly;
- e. declares in invoices or other documents a CO₂ levy that has not been paid or that has not been paid to the extent declared; or
- f. obstructs, impedes or prevents the proper conduct of an inspection.

² In serious cases, or in the event of a subsequent offence, a fine of up to 30,000 francs or, if it is higher, an amount up to the value of the levy evaded may be imposed.

Art. 44 False information relating to passenger cars

¹ Any person who wilfully provides false information for the purpose of the calculations specified in Article 12 is liable to a fine not exceeding 30,000 francs.

² If the offender acts through negligence, the penalty is a fine.

Art. 45 Relationship with the Federal Act on Administrative Criminal Law

¹ Offences are prosecuted and adjudicated in accordance with the Federal Act of 22 March 1974¹¹ on Administrative Criminal Law.

² The prosecuting and adjudicating authority is the Federal Customs Administration.

³ If an act constitutes both an offence under Articles 42 or 43 and an offence against other federal tax legislation that is subject to prosecution by the Federal Customs Administration, the penalty for the more serious offence is imposed and increased appropriately.

Chapter 9: Final Provisions

Art. 46 Repeal of current legislation

The CO₂ Act of 8 October 1999¹² is repealed.

Art. 47 Amendment of Current Legislation

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¹¹ SR 313.0

¹² [AS 2000 979, 2007 1411 Annex No 10, 2009 5043 Art. 10, 2010 951, 2011 13, 2012 351]

¹³ The amendment can be consulted under AS 2012 6989.

Art. 48 Carrying over unused emission allowances and
emission reduction certificates

¹ Emission allowances not used in the period 2008–2012 may be carried over without limitation to the period 2013–2020.

² Emission reduction certificates not used in the period 2008–2012 may be carried over to the period 2013–2020 subject to limitations. The Federal Council regulates the details.

Art. 49 Transitional provision on the imposition and refund
of the CO₂ levy and the distribution of the revenue

¹ For fossil fuels that have been released for consumption or free circulation prior to the commencement of this Act, the CO₂ levy is levied or refunded in accordance with the previous law.

² The revenue from the CO₂ levy imposed prior to the commencement of this Act is distributed to the public and the business community in accordance with the previous law.

Art. 50 Referendum and commencement

¹ This Act is subject to an optional referendum.

² The Federal Council determines the commencement date.

Commencement date: 1 January 2013¹⁴

¹⁴ Federal Council Decree of 20 Nov. 2012