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## **Federal Act on the Reduction of CO<sub>2</sub> Emissions (CO<sub>2</sub> Act)**

of 23 December 2011 (Status as of 1 January 2022)

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*The Federal Assembly of the Swiss Confederation,*

on the basis of Articles 74 and 89 of the Federal Constitution<sup>1</sup>

and having considered the Federal Council Dispatches dated 26 August 2009<sup>2</sup>  
and 20 January 2010<sup>3</sup>,

*decrees:*

### **Chapter 1    General Provisions**

#### **Art. 1            Aim**

<sup>1</sup> This Act is intended to reduce greenhouse gas emissions and in particular CO<sub>2</sub> 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.

<sup>2</sup> The Federal Council designates the greenhouse gases.

#### **Art. 2            Definitions**

<sup>1</sup> 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 (CHP plants).<sup>4</sup>

<sup>2</sup> Motor fuels are fossil fuels used in combustion engines to produce power.

AS 2012 6989

<sup>1</sup> SR 101

<sup>2</sup> BBl 2009 7433

<sup>3</sup> BBl 2010 973

<sup>4</sup> Amended by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>3</sup> Emission allowances are tradable rights to emit greenhouse gases allocated or auctioned by the Confederation or by states or communities of states with emissions trading schemes (ETS) recognised by the Federal Council.<sup>5</sup>

<sup>4</sup> Emission reduction certificates are internationally recognised tradable documents attesting to reductions in emissions achieved abroad in accordance with the Kyoto Protocol of 11 December 1997<sup>6</sup> to the United Nations Framework Convention on Climate Change.<sup>7</sup>

<sup>4bis</sup> International attestations are attestations of verifiable reductions in greenhouse gas emissions achieved abroad in accordance with the Climate Convention of 12 December 2015<sup>8,9</sup>

<sup>5</sup> Installations are fixed technical units at a single location.<sup>10</sup>

### Art. 3 Reduction target

<sup>1</sup> 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.

<sup>1bis</sup> Greenhouse gas emissions must be reduced by a further 1.5 per cent annually by 2024 compared with 1990 levels. The Federal Council may specify sectoral interim targets.<sup>11</sup>

<sup>1ter</sup> At least 75 per cent of the reduction in greenhouse gas emissions in accordance with paragraph <sup>1bis</sup> must be achieved through domestic measures.<sup>12</sup>

<sup>2</sup> ...<sup>13</sup>

<sup>5</sup> Amended by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>6</sup> SR **0.814.011**

<sup>7</sup> Amended by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

<sup>8</sup> SR **0.814.012**

<sup>9</sup> Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

<sup>10</sup> Inserted by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>11</sup> Inserted by No I 2 of the FA of 20 Dec. 2019 on the Extension of the Time Limit for Tax Relief for Natural Gas, Liquid Gas and Biogenic Fuels and on the Amendment of the Federal Act on the Reduction of CO<sub>2</sub> Emissions (AS **2020** 1269; BBl **2019** 5679, 5813). Amended by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

<sup>12</sup> Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

<sup>13</sup> Repealed by No I of the FA of 17 Dec. 2021, with effect from 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

<sup>3</sup> 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.

<sup>3bis</sup> The Federal Council shall determine the extent to which emission allowances from states or communities of states with ETSs recognised by the Federal Council shall be taken into account in order to achieve the reduction target in accordance with paragraph 1.<sup>14</sup>

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

<sup>5</sup> 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

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

<sup>2</sup> 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.

<sup>3</sup> Voluntary measures also include undertakings by consumers of fossil thermal and motor fuels voluntarily to limit their CO<sub>2</sub> emissions.

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

#### **Art. 5** Counting emission reductions achieved abroad

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

<sup>1</sup> 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.

<sup>2</sup> 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;

<sup>14</sup> Inserted by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411).

- 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

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

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

**Art. 8** Coordination of adaptation measures

<sup>1</sup> 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.

<sup>2</sup> It is responsible for devising and obtaining the basic knowledge necessary for these measures.

**Chapter 2 Technical Measures to reduce CO<sub>2</sub> Emissions**

**Section 1 Buildings**

**Art. 9**

<sup>1</sup> The cantons ensure that the CO<sub>2</sub> 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.

<sup>2</sup> The cantons submit a report each year to the Confederation on the measures taken.

**Section 2<sup>15</sup> Passenger Cars, Vans and Light Articulated Vehicles**

**Art. 10** Principle

<sup>1</sup> The CO<sub>2</sub> emissions from passenger cars that are registered for the first time must be reduced to an average of 130 g CO<sub>2</sub>/km by the end of 2015 and to an average of 95 g CO<sub>2</sub>/km by the end of 2020.

<sup>2</sup> The CO<sub>2</sub> emissions from vans and articulated vehicles with a total weight of no more than 3.50 t (light articulated vehicles) that are registered for the first time must be reduced to an average of 147 g CO<sub>2</sub>/km by the end of 2020.

<sup>3</sup> For this purpose, any importer or manufacturer of vehicles under paragraphs 1 and 2 (referred to below as “vehicles”) must reduce the average CO<sub>2</sub> emissions of the

<sup>15</sup> Amended by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

vehicles that it imports into or manufactures in Switzerland that are registered for the first time in the reference year in accordance with its individual target (Art. 11).

<sup>4</sup> The targets in paragraphs 1 and 2 are based on the current customary measurement methods. In the event of a change in the measurement methods, the Federal Council shall specify in the implementing provisions the targets that correspond to the targets in these paragraphs. It shall indicate the applicable measurement methods, taking account of the European Union regulations.<sup>16</sup>

**Art. 10a** Interim targets, facilitations and exceptions

<sup>1</sup> The Federal Council may specify binding interim targets in addition to the target values under Article 10.

<sup>2</sup> It may issue special provisions on the transition to new targets that facilitate the meeting of targets for a limited period.

<sup>3</sup> It may exclude certain vehicles from the scope of the regulations on reducing CO<sub>2</sub> emissions.

<sup>4</sup> In doing so, it shall take account of the regulations of the European Union.

**Art. 10b** Reporting and proposals for a further reduction of CO<sub>2</sub> emissions

<sup>1</sup> 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 targets specified in Article 10 and the interim targets under Article 10a paragraph 1 have been met.

<sup>2</sup> It shall at the due time submit to the Federal Assembly proposals for a further reduction in CO<sub>2</sub> emissions from vehicles for the period after 2020. In doing so, it shall take account of the regulations of the European Union.

**Art. 11** Individual target

<sup>1</sup> The Federal Council shall establish a method for calculating the individual target for each importer or manufacturer of vehicles. The calculation relates to the vehicles of the importer or manufacturer first registered in the reference year (the new vehicle fleet). Passenger cars on the one hand and vans and light articulated vehicles on the other each constitute their own new vehicle fleet.

<sup>2</sup> In determining the calculation method, the Federal Council shall take account of the following in particular:

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

<sup>16</sup> Inserted by No I 2 of the FA of 20 Dec. 2019 on the Extension of the Time Limit for Tax Relief for Natural Gas, Liquid Gas and Biogenic Fuels and on the Amendment of the Federal Act on the Reduction of CO<sub>2</sub> Emissions, in force since 1 Jan. 2021 (AS 2020 1269; BBl 2019 5679 5813).

<sup>3</sup> Importers and manufacturers may agree to form emissions pools. The same rights and obligations apply to each emissions pool as for each importer or manufacturer.

<sup>4</sup> Where an importer or manufacturer registers for the first time in any year no more than 49 passenger cars or, where applicable, no more than five vans or light articulated vehicles of the vehicles that it imports into or manufactures in Switzerland, the individual targets are determined for each vehicle on the basis of the calculation method specified in paragraph 1.

**Art. 12** Calculation of the individual target and the average CO<sub>2</sub> emissions

<sup>1</sup> At the end of each year, the Swiss Federal Office of Energy shall calculate for each importer or manufacturer:

- a. the individual target;
- b. the average CO<sub>2</sub> emissions of the relevant new vehicle fleet.

<sup>2</sup> The Federal Council shall specify the data that importers or manufacturers must provide for the calculations specified in paragraph 1 for vehicles 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.

<sup>3</sup> The Federal Council may specify the extent to which special account may be taken of vehicles with very low CO<sub>2</sub> emissions when making the calculation specified in paragraph 1 letter b.

**Art. 13** Penalty for exceeding the individual target

<sup>1</sup> If the average CO<sub>2</sub> emissions from the new vehicle fleet of an importer or manufacturer exceed the individual target, the manufacturer or the importer must pay the Confederation the following amounts for each vehicle registered for the first time in the relevant calendar year:

- a. for 2013–2018:
  1. for the first gram of CO<sub>2</sub>/km over the individual target: between 5.00 and 8.00 francs,
  2. for the second gram of CO<sub>2</sub>/km over the individual target: between 15.00 and 24.00 francs,
  3. for the third gram of CO<sub>2</sub>/km over the individual target: between 25.00 and 40.00 francs,
  4. for the fourth and every further gram of CO<sub>2</sub>/km over the individual target: between 95.00 and 152.00 francs;
- b. from 1 January 2019: for each gram of CO<sub>2</sub>/km over the individual target between 95.00 and 152.00 francs.

<sup>2</sup> The amounts in paragraph 1 shall be re-calculated each year. The Federal Council shall regulate the method used for their calculation. It shall base its decision on the amounts applied in the European Union and the exchange rate. The calculation and

publication of the amounts is carried out before the start of the year concerned by the Federal Department of the Environment, Transport, Energy and Communications.

<sup>3</sup> For importers and manufacturers under Article 11 paragraph 4, the amounts in paragraphs 1 and 2 apply to each individual vehicle whose CO<sub>2</sub> emissions exceed the individual target. If certain provisions issued in accordance with Article 10a lead to a situation where importers and manufacturers under Article 11 paragraph 4 are prejudiced in comparison with other importers or manufacturers because of the special rules that apply to them on calculating the target, the Federal Council may reduce the sanction for those affected.

<sup>4</sup> The members of emissions pools are jointly and severally liable.

<sup>5</sup> In addition, Articles 10 and 11 of the Mineral Oil Tax Act of 21 June 1996<sup>17</sup> apply by analogy.

<sup>6</sup> The Federal Council may provide that the sales documentation for vehicles indicates the amount which would have to be paid in accordance with paragraphs 1–3 if the sanction were fixed on the basis of the CO<sub>2</sub> emissions of the individual vehicle.

## Chapter 3 Sinks

### Art. 14

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

## Chapter 4 Emissions Trading and Compensation

### Section 1 Emissions Trading Scheme (ETS)

#### Art. 15<sup>18</sup> Participation by application

<sup>1</sup> Operators of installations that belong to a specific category and which cause high or moderate greenhouse gas emissions may apply to participate in the ETS.

<sup>2</sup> Each year the companies must surrender to the Confederation emission allowances corresponding to the emissions caused by these installations.<sup>19</sup>

<sup>3</sup> The Federal Council shall determine the categories of installation. In doing so, it takes account of:

<sup>17</sup> SR 641.61

<sup>18</sup> Amended by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411).

<sup>19</sup> Amended by No I 2 of the FA of 20 Dec. 2019 on the Extension of the Time Limit for Tax Relief for Natural Gas, Liquid Gas and Biogenic Fuels and on the Amendment of the Federal Act on the Reduction of CO<sub>2</sub> Emissions, in force since 1 Jan. 2021 (AS 2020 1269; BBl 2019 5679 5813).

- a. the correlation between the CO<sub>2</sub> levy burden and the value added by the installations in the relevant category;
- b. the extent to which the CO<sub>2</sub> levy adversely affects the international competitiveness of the installations in the category concerned.

**Art. 16<sup>20</sup>** Obligation to participate: installation operators

<sup>1</sup> Operators of installations that belong to a specific category and which cause high greenhouse gas emissions are obliged to participate in the ETS.

<sup>2</sup> Each year these companies must surrender to the Confederation emission allowances corresponding to the emissions caused by these installations.<sup>21</sup>

<sup>3</sup> The Federal Council shall determine the categories of installation.

**Art. 16a<sup>22</sup>** Obligation to participate: aircraft operators

<sup>1</sup> Operators of aircraft that take off or land in Switzerland are obliged to participate in the ETS in accordance with international agreements.

<sup>2</sup> The Federal Council shall regulate:

- a. the exceptions for flights that are covered by an ETS recognised by the Federal Council;
- b. the exceptions for flights that neither enter nor leave the European Economic Area (EEA), and further exceptions; in doing so, it shall give due consideration to the rules of the European Union.

<sup>3</sup> Each year, operators must surrender the emission allowances to the Confederation corresponding to the emissions caused by the aircraft.<sup>23</sup>

<sup>4</sup> If based on international agreements there are two or more international systems for reducing greenhouse gas emissions from aircraft, the Federal Council shall ensure that the aircraft operators are not subject to more than one of these systems for greenhouse gas emissions from flights.

<sup>20</sup> Amended by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>21</sup> Amended by No 12 of the FA of 20 Dec. 2019 on the Extension of the Time Limit for Tax Relief for Natural Gas, Liquid Gas and Biogenic Fuels and on the Amendment of the Federal Act on the Reduction of CO<sub>2</sub> Emissions, in force since 1 Jan. 2021 (AS **2020** 1269; BBl **2019** 5679 5813).

<sup>22</sup> Inserted by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>23</sup> Amended by No 12 of the FA of 20 Dec. 2019 on the Extension of the Time Limit for Tax Relief for Natural Gas, Liquid Gas and Biogenic Fuels and on the Amendment of the Federal Act on the Reduction of CO<sub>2</sub> Emissions, in force since 1 Jan. 2021 (AS **2020** 1269; BBl **2019** 5679 5813).



**Art. 17<sup>24</sup>** Refund of the CO<sub>2</sub> levy

<sup>1</sup> Installation operators that participate in the ETS shall on application be refunded the CO<sub>2</sub> levy on thermal fuels.

<sup>2</sup> In the case of fossil-thermal power plants, the levy is refunded only to the extent that the CO<sub>2</sub> price exceeds a certain minimum price. The minimum price is equivalent to the average external costs minus the auction costs for the surrendered emission allowances.

**Art. 18<sup>25</sup>** Determining the available quantity of emission allowances

<sup>1</sup> The Federal Council shall determine in advance the quantity of emission allowances for installations and the quantity of emission allowances for aircraft to be made available each year; in doing so, it shall give due consideration to the reduction target in accordance with Article 3 and comparable international arrangements.<sup>26</sup>

<sup>2</sup> It may adjust the available quantity of emission allowances if it designates new categories of installation in accordance with Article 16 paragraph 3, retrospectively exempts categories of installation from the requirement to participate in the ETS, or if comparable international arrangements are modified.

<sup>3</sup> It shall retain an appropriate quantity of emission allowances each year for installations and for aircraft in order to make these available to future ETS participants and fast-growing ETS participants.

**Art. 19<sup>27</sup>** Issuing emission allowances for installations

<sup>1</sup> The emission allowances for installations are issued annually.

<sup>2</sup> Some of the emission allowances are allocated free of charge. The other emission allowances are auctioned.

<sup>3</sup> The quantity of emission allowances allocated free of charge to an installation operator is determined in particular by the greenhouse gas efficiency of reference installations.

<sup>24</sup> Amended by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>25</sup> Amended by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>26</sup> Amended by No I 2 of the FA of 20 Dec. 2019 on the Extension of the Time Limit for Tax Relief for Natural Gas, Liquid Gas and Biogenic Fuels and on the Amendment of the Federal Act on the Reduction of CO<sub>2</sub> Emissions, in force since 1 Jan. 2021 (AS **2020** 1269; BBl **2019** 5679 5813).

<sup>27</sup> Amended by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>4</sup> Installation operators shall not be allocated emission allowances free of charge for the production of electricity. The Federal Council may provide for exceptions.

<sup>5</sup> If the quantity of emission allowances available on the market increases considerably for economic reasons, the Federal Council may stipulate that only some of the remaining emission allowances be auctioned. The emission allowances that are not offered for auction and those that are not sold at auction shall be cancelled.

<sup>6</sup> The Federal Council regulates the details; in doing so it shall give due consideration to comparable international arrangements.

**Art. 19<sup>a28</sup>** Issuing emission allowances for aircraft

<sup>1</sup> The emission allowances for aircraft are issued annually.

<sup>2</sup> Some of the emission allowances are allocated free of charge. The other emission allowances are auctioned.

<sup>3</sup> The quantity of emission allowances allocated free of charge to an aircraft operator is determined in particular by the tonne-kilometres flown in 2018.

<sup>4</sup> The Federal Council shall regulate the details; it shall give due consideration to the rules of the European Union.

**Art. 20<sup>29</sup>** Reporting

Installation operators and aircraft operators must submit annual greenhouse gas emission reports to the Confederation.

**Art. 21<sup>30</sup>** Penalty for failure to surrender emission allowances

<sup>1</sup> Installation operators and aircraft operators must pay the Confederation the sum of 125 francs per tonne CO<sub>2</sub> equivalent (CO<sub>2</sub>eq) for emissions that are not covered by emission allowances.

<sup>2</sup> Emission allowances due but not surrendered in any year must be surrendered to the Confederation in the following year.

<sup>28</sup> Inserted by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>29</sup> Amended by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>30</sup> Amended by No 12 of the FA of 20 Dec. 2019 on the Extension of the Time Limit for Tax Relief for Natural Gas, Liquid Gas and Biogenic Fuels and on the Amendment of the Federal Act on the Reduction of CO<sub>2</sub> Emissions, in force since 1 Jan. 2021 (AS **2020** 1269; BBl **2019** 5679 5813).

**Section 2 ...****Art. 22–25**<sup>31</sup>**Section 3 Compensation in the case of Motor Fuels****Art. 26** Principle

<sup>1</sup> Any person who in accordance with the Mineral Oil Tax Act of 21 June 1996<sup>32</sup> releases motor fuels for consumption must compensate for part of the CO<sub>2</sub> emissions that are attributable to the use of the motor fuels as energy source.

<sup>2</sup> The Federal Council, after consulting the sector, shall set the compensation rate at between 5 and 40 per cent based on the extent to which the reduction target specified in Article 3 or the development of CO<sub>2</sub> emissions from traffic has been achieved and decides on the extent of domestic compensation measures.<sup>33</sup>

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

<sup>4</sup> 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 1996<sup>34</sup> are obliged to compensate. They may agree to form compensation pools.

**Art. 28** Penalty for failure to compensate

<sup>1</sup> Any person who fails to fulfil an obligation to compensate must pay the Confederation the sum of 160 francs for each uncompensated tonne of CO<sub>2</sub>.

<sup>2</sup> In addition, the following must be surrendered to the Confederation in the following year in the relevant amount:

- a. for 2021: emission reduction certificates;
- b. from 2022: emission allowances or international attestations.<sup>35</sup>

<sup>31</sup> Repealed by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, with effect from 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>32</sup> SR **641.61**

<sup>33</sup> Amended by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

<sup>34</sup> SR **641.61**

<sup>35</sup> Amended by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

## Section 3a<sup>36</sup> Emissions Trading Register

### Art. 28a

<sup>1</sup> The Confederation shall maintain a public emissions trading register. The register shall be used to keep records of and to conduct transactions in emission allowances, attestations and emission reduction certificates.

<sup>2</sup> Persons may only be entered in the emissions trading register if they have their registered office or are resident in Switzerland or in the EEA and hold a bank account in Switzerland or in the EEA. The Federal Council shall regulate any exceptions.

<sup>3</sup> The Federal Council may stipulate that payments of money in connection with the auctioning of emission allowances may only be made via bank accounts in Switzerland or in the EEA.

## Chapter 5 CO<sub>2</sub> Levy

### Section 1 Imposition of the Levy<sup>37</sup>

#### Art. 29 CO<sub>2</sub> levy on thermal fuels

<sup>1</sup> The Confederation shall impose a CO<sub>2</sub> levy on the production, extraction and import of thermal fuels.

<sup>2</sup> The rate of the levy amounts to 36 francs per tonne of CO<sub>2</sub>. 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 2005<sup>38</sup> 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 1996<sup>39</sup>.

<sup>36</sup> Inserted by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411).

<sup>37</sup> Inserted by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>38</sup> SR 631.0

<sup>39</sup> SR 641.61

## Section 2

### Refund of the CO<sub>2</sub> Levy to Operators<sup>40</sup> with an Obligation to reduce Greenhouse Gas Emissions<sup>41</sup>

#### Art. 31 Obligation to reduce greenhouse gas emissions<sup>42</sup>

<sup>1</sup> Installation operators<sup>43</sup> in certain economic sectors shall be refunded the CO<sub>2</sub> levy on application provided that they undertake to the Confederation to reduce greenhouse gas emissions by a specific amount by 2020 (reduction obligation) and to submit an annual report on their efforts.<sup>44</sup>

<sup>1bis</sup> The reduction obligations in paragraph 1 may be extended until the end of 2021 provided that the scope of the reduction is continued on a linear basis and a corresponding application is submitted by 31 May 2021.<sup>45</sup>

<sup>1ter</sup> The reduction obligations in accordance with paragraph 1<sup>bis</sup> may be extended until the end of 2024 provided that operators undertake to achieve a reduction of a specific amount in addition to that in paragraphs 1 and 1<sup>bis</sup> and submit a related application by a date specified by the Federal Council.<sup>46</sup>

<sup>1quater</sup> Operators in accordance with paragraph 1 that have not yet undertaken to meet a reduction obligation may also undertake to reduce their greenhouse gas emissions by a specific amount by the end of 2024.<sup>47</sup>

<sup>2</sup> The Federal Council shall designate the economic sectors. In doing so, it takes account of:

- a. the correlation between the CO<sub>2</sub> levy burden and the value added to the relevant economic sector;

<sup>40</sup> Term in accordance with Annex para. 2 of the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems (Amendment of the CO<sub>2</sub> Act), in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411). This amendment has been made in the provisions specified in the AS.

<sup>41</sup> Inserted by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>42</sup> Amended by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>43</sup> Term in accordance with Annex para. 1 of the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems (Amendment of the CO<sub>2</sub> Act), in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411). This amendment has been made in the provisions specified in the AS.

<sup>44</sup> Amended by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>45</sup> Inserted by No I 2 of the FA of 20 Dec. 2019 on the Extension of the Time Limit for Tax Relief for Natural Gas, Liquid Gas and Biogenic Fuels and on the Amendment of the Federal Act on the Reduction of CO<sub>2</sub> Emissions, in force since 1 Jan. 2021 (AS 2020 1269; BBl 2019 5679 5813).

<sup>46</sup> Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS 2022 262; BBl 2021 2252, 2254).

<sup>47</sup> Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS 2022 262; BBl 2021 2252, 2254).

- b. the extent to which the CO<sub>2</sub> levy adversely affects the international competitiveness of the relevant economic sector.

<sup>3</sup> The scope of the reduction obligation is determined in particular by:<sup>48</sup>

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

<sup>4</sup> The Federal Council shall determine the extent to which operators may fulfil their reduction obligation:

- a. by 2021: by surrendering emission reduction certificates;
- b. from 2022: by surrendering emission allowances.<sup>49</sup>

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

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

**Art. 31a**<sup>50</sup> CHP plant operators with a reduction obligation<sup>51</sup>

<sup>1</sup> The reduction obligation shall on application be adjusted for operators that:

- a. run a CHP plant that meets the requirements of Article 32a; and
- b. produce electricity in an excess volume determined by the Federal Council in comparison with the reference year 2012 that is used outside the plant<sup>52</sup>.

<sup>2</sup> 40 per cent of the CO<sub>2</sub> levy on thermal fuels that are verifiably used to produce electricity in accordance with paragraph 1 shall in this case only be refunded if the operator concerned demonstrates to the Confederation that it has taken measures to the extent of these funds to increase its own energy efficiency or the energy efficiency of installations<sup>53</sup> that obtain electricity or heat from the CHP plant.

<sup>48</sup> Amended by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>49</sup> Amended by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS 2022 262; BBl 2021 2252, 2254).

<sup>50</sup> Inserted by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>51</sup> Amended by Annex para. 3 of the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411).

<sup>52</sup> Term in accordance with Annex para. 4 of the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411).

<sup>53</sup> Term in accordance with Annex para. 5 of the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411). This amendment has been made in the provisions specified in the AS.

<sup>3</sup> The Federal Council shall regulate the details, in particular:

- a. the efficiency measures that give rise to a refund;
- b. the period within which efficiency measures must be taken; and
- c. reporting.

<sup>4</sup> Levy payments that are not refunded due to a failure to meet the requirements in paragraph 2 shall be redistributed to the general public and the business community in accordance with Article 36.

**Art. 32** Penalty for failure to meet the commitment

<sup>1</sup> Operators specified in Article 31 that do not meet their reduction obligation to the Confederation must pay the Confederation the sum of 125 francs for each excess tonne of CO<sub>2</sub>eq emitted.<sup>54</sup>

<sup>2</sup> For the excess tonnes CO<sub>2</sub>eq emitted, emission allowances must be surrendered to the Confederation in the following year.<sup>55</sup>

### Section 3<sup>56</sup>

#### **Refund of the CO<sub>2</sub> levy to CHP Plant Operators that neither participate in the ETS nor are subject to a Reduction Obligation**

**Art. 32a** Eligible CHP plant operators

<sup>1</sup> Operators of CHP plants that neither participate in the ETS nor are subject to a reduction obligation shall be partially refunded the CO<sub>2</sub> levy in accordance with Article 32b provided the plant:

- a. is primarily designed to produce heat;
- b. meets the minimum energy, ecological or other requirements.

<sup>2</sup> The Federal Council shall specify the performance limits and the minimum requirements.

**Art. 32b** Amount of and requirements for the partial refund

<sup>1</sup> On application, in each case 60 per cent of the CO<sub>2</sub> levy on thermal fuels that are verifiably used to produce electricity shall be refunded.

<sup>2</sup> The remaining 40 per cent shall be refunded only if the operator demonstrates to the Confederation that it has taken measures to the extent of these funds to increase

<sup>54</sup> Amended by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>55</sup> Amended by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS 2022 262; BBl 2021 2252, 2254).

<sup>56</sup> Inserted by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

its own energy efficiency or the energy efficiency of installations that obtain electricity or heat from the CHP plant.

<sup>3</sup> The Federal Council shall regulate the details in an analogous procedure to Article 31a paragraph 3. Article 31a paragraph 4 applies to levy payments that are ineligible for refunding.

## Section 457 Refund of the CO<sub>2</sub> levy for Non-Energy-Related Uses

### Art. 32c

Persons that demonstrate that they have used thermal fuels but not to produce energy shall on application be refunded the CO<sub>2</sub> levy on these thermal fuels.

## Section 5 Procedure<sup>58</sup>

### Art. 33 ...<sup>59</sup>

<sup>1</sup> The procedural provisions of the mineral oil tax legislation apply to the collection and refund of the CO<sub>2</sub> levy, subject to paragraph 2.

<sup>2</sup> The procedural provisions of the customs legislation apply to the import and export of coal.

## Chapter 6 Use of the Revenues

### Art. 34<sup>60</sup> Reduction of CO<sub>2</sub> emissions from buildings

<sup>1</sup> A third of the revenue from the CO<sub>2</sub> levy, but no more than 450 million francs per year, shall be used to finance measures to reduce long-term CO<sub>2</sub> emissions from buildings including the reduction of electricity consumption in the winter half year. For this purpose, the Confederation shall grant the cantons global financial assistance in accordance with Articles 47, 48 and 50 of the Energy Act of 30 September 2016<sup>61</sup> (EnA).

<sup>2</sup> In order to reduce CO<sub>2</sub> emissions from buildings in the long term, the Confederation shall support projects for the direct use of geothermal energy for providing heat. It shall use a small percentage of the funds mentioned in paragraph 1, but no more

<sup>57</sup> Inserted by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>58</sup> Inserted by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>59</sup> Repealed by Annex No II 2 of the Energy Act of 30 Sept. 2016, with effect from 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>60</sup> Amended by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>61</sup> SR 730.0



than 30 million francs. The Federal Council shall specify the criteria for and the details of the support as well as the maximum annual amount of financial assistance.

<sup>3</sup> The payment of the global financial assistance shall be made in accordance with Article 52 EnA subject to the following special regulations:

- a. In addition to the requirements of Article 52 EnA, global financial assistance shall only be paid to cantons that have programmes supporting the energy-related upgrading of building shells and building technology as well as the replacement of existing electrical resistance heating or oil heating systems, thereby guaranteeing harmonised implementation.
- b. In derogation from Article 52 paragraph 1 EnA, the global financial assistance shall be divided into a basic contribution per resident and a supplementary contribution. The basic contribution per resident amounts to a maximum of 30 per cent of the available funds. The supplementary contribution may not be higher than double the annual credit approved by the canton for carrying out its programme.

<sup>4</sup> If the funds available in accordance with paragraph 1 are not exhausted, they will be redistributed to the general public and the business community in accordance with Article 36.

**Art. 35** Promotion of technologies for reducing greenhouse gases

<sup>1</sup> A maximum of 25 million francs per annum is allocated from CO<sub>2</sub> levy revenues to the Technology Fund in order to finance loan guarantees.

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

<sup>3</sup> 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.

<sup>4</sup> The loan guarantees are granted for a maximum term of 10 years.

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

<sup>1</sup> The remaining revenue from the CO<sub>2</sub> levy is redistributed to the general public and the business community in proportion to their original payments.

<sup>2</sup> 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.

<sup>3</sup> 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 FA of

20 Dec. 1946<sup>62</sup> 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<sup>63</sup>** Allocation of penalty revenues to the infrastructure fund

The revenues from the penalty under Article 13 is allocated to the National Highways and Suburban Transport Fund.

**Art. 38** Calculation of revenues

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

**Chapter 7 Implementation, Procedures and Promotion<sup>64</sup>**

**Art. 39** Enforcement

<sup>1</sup> The Federal Council shall implement this Act and issue the implementing provisions. Before doing so, it shall consult the cantons and interested groups.

<sup>1bis</sup> In order to implement international agreements on the linking of emissions trading systems, the Federal Council may:

- a. issue regulations on how the tasks assigned to Switzerland are to be fulfilled;
- b. delegate certain tasks to foreign or international authorities.<sup>65</sup>

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

<sup>3</sup> It regulates the sanctions procedure.

<sup>4</sup> The Federal Office for the Environment (FOEN) is responsible for the assessment of matters relating to climate protection.<sup>66</sup>

<sup>5</sup> It shall issue regulations on the form of applications, notifications and reports. It may order the use of electronic data processing. In such an event, it shall specify

<sup>62</sup> SR **831.10**

<sup>63</sup> Amended by Annex No II 2 of the FA of 30 Sept. 2016 on the National Highways and Suburban Transport Fund, in force since 1 Jan. 2018 (AS **2017** 6825; BBl **2015** 2065).

<sup>64</sup> Amended by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

<sup>65</sup> Inserted by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>66</sup> Amended by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

requirements in particular for the interoperability of the IT systems and for data security.<sup>67</sup>

**Art. 40** Evaluation

<sup>1</sup> The Federal Council periodically evaluates:

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

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

<sup>3</sup> It bases its assessment on statistical surveys.

<sup>4</sup> It submits regular reports to the Federal Assembly.

**Art. 40a**<sup>68</sup> Requirement to provide information

<sup>1</sup> The federal authorities are entitled to receive the information they require to implement this Act.

<sup>2</sup> The following are required to provide information in particular:

- a. installation operators in accordance with Articles 15 and 16;
- b. aircraft operators in accordance with Article 16a;
- c. persons liable to pay the levy in accordance with Article 30;
- d. installation operators with a reduction obligation under Article 31 paragraph 1;
- e. CHP plant operators in accordance with Article 32a;
- f. persons applying for a refund of the CO<sub>2</sub> levy under Article 32c.

<sup>3</sup> The required documents must be made available to the federal authorities free of charge, and the authorities must be granted access to the relevant premises during normal working hours.

<sup>67</sup> Inserted by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411).

<sup>68</sup> Inserted by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS 2019 4327; BBl 2018 411).

**Art. 40b<sup>69</sup>** Processing of personal data

<sup>1</sup> The competent federal authorities may process personal data for the purposes of this Act, including sensitive data on administrative or criminal prosecutions and sanctions.

<sup>2</sup> They may store the data electronically.

<sup>3</sup> The Federal Council shall determine the categories of personal data that may be processed and the length of time they may be stored.

**Art. 40c<sup>70</sup>** Information and documentation systems

<sup>1</sup> The FOEN shall operate information and documentation systems in order to conduct procedures under this Act electronically. The Federal Council shall specify which procedures are to be conducted electronically.

<sup>2</sup> The FOEN shall ensure the authenticity and integrity of the data transmitted in procedures that are conducted electronically.

<sup>3</sup> The competent federal authorities, when submitting documents electronically that must by law be signed may recognise another electronic confirmation of the information by the person involved in the procedure concerned instead of a qualified electronic signature.

<sup>4</sup> The FOEN may grant the following bodies and persons access to the information and documentation systems:

- a. the Swiss Federal Office of Energy;
- b. the Federal Social Insurance Office;
- c. the Federal Office of Civil Aviation;
- d. the Federal Office for Customs and Border Security (FOCBS);
- e. private organisations under Article 39 paragraph 2;
- f. applicants, persons required to report and operators under this Act;
- g. approved validators and verifiers;
- h. inspection centres authorised by the FOEN;
- i. other bodies or persons designated by the Federal Council, provided this is required to fulfil duties and obligations under this Act.

<sup>5</sup> The bodies and person mentioned in paragraph 4 may retrieve and process personal data from the information and documentation systems including sensitive person data about administrative or criminal prosecutions and penalties, provided this is necessary in order to fulfil their duties and obligations under this Act.

<sup>69</sup> Inserted by the Annex to the FD of 22 March 2019 on the approval of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, in force since 1 Jan. 2020 (AS **2019** 4327; BBl **2018** 411).

<sup>70</sup> Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

**Art. 41** Basic and advanced training

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

<sup>2</sup> The authorities inform the general public about precautionary measures relating to climate protection and advise communes, companies and consumers on measures to reduce CO<sub>2</sub> emissions.

**Chapter 8 Criminal Provisions****Art. 42** Evasion of the CO<sub>2</sub> levy

<sup>1</sup> Any person who wilfully obtains for himself or for another an unlawful advantage with regard to the levy, in particular by evading the CO<sub>2</sub> levy or by obtaining an unlawful exemption from or distribution or refund of the levy, shall be liable to a fine not exceeding three times the amount of the unlawful advantage.

<sup>2</sup> Attempts and complicity are offences.

<sup>3</sup> Any person who obtains for himself or for another an unlawful advantage with regard to the levy through negligence shall be liable to a fine not exceeding the amount of the unlawful advantage.

**Art. 43** Prejudicing the collection of the CO<sub>2</sub> levy

<sup>1</sup> 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 CO<sub>2</sub> 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.

<sup>2</sup> 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 vehicles<sup>71</sup>

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

<sup>2</sup> If the offender acts through negligence, the penalty is a fine.

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

<sup>1</sup> Offences are prosecuted and adjudicated in accordance with the Federal Act of 22 March 1974<sup>72</sup> on Administrative Criminal Law.

<sup>2</sup> The prosecuting and adjudicating authority is the FOCBS.<sup>73</sup>

<sup>3</sup> 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 FOCBS, the penalty for the more serious offence is imposed and increased appropriately.<sup>74</sup>

**Chapter 9 Final Provisions****Art. 46** Repeal of current legislation

The CO<sub>2</sub> Act of 8 October 1999<sup>75</sup> is repealed.

**Art. 47** Amendment of current legislation

...<sup>76</sup>

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

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

<sup>2</sup> 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.

<sup>71</sup> Amended by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 6839; BBl 2013 7561).

<sup>72</sup> SR 313.0

<sup>73</sup> Amended by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS 2022 262; BBl 2021 2252, 2254).

<sup>74</sup> Amended by No I 23 of the O of 12 June 2020 on the Amendment of Legislation as a consequence of the Change to the Name of the Federal Customs Administration as part of its further Development, in force since 1 Jan. 2022 (AS 2020 2743).

<sup>75</sup> [AS 2000 979, 2007 1411 Annex No 10, 2009 5043 Art. 10, 2010 951, 2011 13, 2012 351]

<sup>76</sup> The amendment may be consulted under AS 2012 6989.

**Art. 48a**<sup>77</sup> Carrying over unused emission allowances and emission reduction certificates 2013–2020

<sup>1</sup> Emission allowances that were not used in the 2013–2020 period may be carried over without limitation to 2021.

<sup>2</sup> Emission reduction certificates that were not used in the 2013–2020 period may be carried over without limitation to 2021. The Federal Council shall regulate the details.

**Art. 48b**<sup>78</sup> Carrying over unused emission allowances, emission reduction certificates and attestations 2021

<sup>1</sup> Emission allowances that were not used in 2021 may be carried over without limitation to the 2022–2024 period.

<sup>2</sup> Emission reduction certificates that were not used in 2021 may be carried over without limitation to the 2022–2024 period.

<sup>3</sup> Attestations for unused domestic emission reductions achieved in the 2013–2021 period may be carried over without limitation to the 2022–2024 period.

**Art. 49** Transitional provision on the imposition and refund of the CO<sub>2</sub> levy and the distribution of the revenue

<sup>1</sup> For fossil fuels that have been released for consumption or free circulation prior to the commencement of this Act, the CO<sub>2</sub> levy is collected or refunded in accordance with the previous law.

<sup>2</sup> The revenue from the CO<sub>2</sub> levy prior to the commencement of this Act is distributed to the public and the business community in accordance with the previous law.

**Art. 49a**<sup>79</sup> Transitional provisions to the Amendment of 30 September 2016

<sup>1</sup> For vans and light articulated vehicles, reports under Article 10b paragraph 1 shall be submitted for the first time in 2019.

<sup>2</sup> The revenue from the CO<sub>2</sub> levy earmarked under Article 34 in its version of 23 December 2011<sup>80</sup> that is not used before the Amendment of 30 September 2016 comes into force shall be used in accordance with the new law.

<sup>3</sup> Up to 100 million francs of the revenue from 2017 earmarked under Article 34 may be used in accordance with Article 34 paragraph 3 letter a in its version of 23 December 2011. In addition, the cantons may be refunded implementation costs

<sup>77</sup> Inserted by No I 2 of the FA of 20 Dec. 2019 on the Extension of the Time Limit for Tax Relief for Natural Gas, Liquid Gas and Biogenic Fuels and on the Amendment of the Federal Act on the Reduction of CO<sub>2</sub> Emissions, in force since 1 Jan. 2021 (AS **2020** 1269; BBl **2019** 5679 5813).

<sup>78</sup> Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Jan. 2022 (AS **2022** 262; BBl **2021** 2252, 2254).

<sup>79</sup> Inserted by Annex No II 2 of the Energy Act of 30 Sept. 2016, in force since 1 Jan. 2018 (AS **2017** 6839; BBl **2013** 7561).

<sup>80</sup> AS **2012** 6989

that remain following the early replacement of the programme agreements by global financial assistance.

**Art. 50**            Referendum and commencement

<sup>1</sup> This Act is subject to an optional referendum.

<sup>2</sup> The Federal Council shall determine the commencement date.

Commencement date: 1 January 2013<sup>81</sup>

<sup>81</sup> FCD of 20 Nov. 2012.