

CLIMATE CHANGE LEGISLATION IN

Germany

AN EXCERPT FROM

The 2015 Global Climate Legislation Study

A Review of Climate Change Legislation in 99 Countries



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Germany

Legislative Process

Parliament is the most important organ of the legislative branch. The Federal Council is also involved in the legislative process as an organ through which the sixteen states participate in the legislation of the Federation. For federal laws to pass, they must obtain a majority in both chambers.

The Federal Government introduces most legislation, but the Federal Council and Parliament also have the right to introduce bills. After a first discussion in the Parliament the bill is passed to the Federal Council. A Mediation Committee resolves any differences over legislation between the two legislative chambers. Once the compromise bill that emerges from the Committee has been approved by a majority in both chambers and by the cabinet (comprising the Chancellor and cabinet ministers), it is signed into law by the Chancellor. The most recent election at a federal level was held in 2013 with the next scheduled in 2017.

The German Basic Law assigns no general legislative powers to the federal level in respect of environmental protection. Rather, the respective legislative powers are separated for air pollution control, noise abatement, waste management, nature conservation and water supply. Environmental responsibilities that fall either to a limited extent under these sectoral responsibilities or are not covered by them at all, can under certain circumstances be covered by the legislative power of “law relating to economic affairs”. Legislation on climate change can in part be covered by the legislative area of “air pollution control” but must also be covered by the “law relating to economic affairs”. There is no uniform legislative area of climate change law.

Approach to Climate Change

Since the 1980s, Germany has taken a leading role in climate change mitigation and adaptation. Traditionally, all political parties support action on climate change, and the (non-legally binding) short-term national emission reduction target of at least 40% reduction in greenhouse gas (GHG) emissions by 2020 compared to 1990 levels was reiterated in the 2013 coalition agreement. Germany is preparing to ratify its legally binding commitments for the second Kyoto period, covering the period 2013-2020.

In December 2014 the cabinet adopted the Action Programme on Climate Protection 2020 which aims to reduce GHG emissions by 62-78 million tonnes CO₂-equivalent by 2020 (as compared to current projections). It comprises nine main components, including the 2014 National Energy Efficiency Action Plan (NAPE), as well as transport-specific measures, climate-friendly building and housing, and a reform of emissions trading. A 2050 version of the programme is expected to be tabled in 2018, and will be updated every three years.

The Climate Action Programme 2020 is accompanied by a confirmation that the current government will increase subsidies for energy efficiency measures to EUR 3.4 bn per year (up from EUR 2bn per year). This strong commitment to climate mitigation is partly the responsibility of the Green Party, which formed a coalition government with the Social Democratic Party from 1998 until 2005, when most of the post-Kyoto climate legislation and a phase-out of nuclear power generation was initiated. The conservative parties (Christian Democratic Union (CDU) and Christian Social Union (CSU)) continued this approach in the Great Coalition with the Social Democrats (2005-2009). The coalition government of CDU/CSU and the Free Democratic Party decided to repeal the phase-out of nuclear energy (by approximately 2022) by extending the life span of nuclear power reactors in autumn 2010, coming into effect by January 2011. The country's long term mitigation and energy aims were based on this decision; using extended nuclear power production as a "bridge" to a low-carbon future.

However, the nuclear disaster in Fukushima, Japan led to the decision to phase out all nuclear power stations by 2022. The new coalition government formed after the 2013 elections aims to maintain momentum towards achieving the voluntary emission reduction targets for 2020 and implementing the 'Energiewende', i.e. the focus on energy efficiency and renewable energy. However, for a variety of reasons including the nuclear phase-out, a decline in power generation from natural gas plants, low prices achieved in the European Union's emission trading scheme (EU ETS), and to satisfy export demand for energy, lignite and hard coal production has been steeply increasing. In order to continue to meet the country's voluntary climate targets, plans for a new law in 2015 to limit coal-fired generation have been announced. As yet details on this law are unavailable. It is also unclear as to how this law may overlap with the EU ETS and the Action Programme on Climate Protection 2020.

The key government agency responsible for climate change at a national level is the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety. After a restructuring of the ministries in 2013, the Federal Ministry for Economy and Energy took over primary responsibility for energy, especially renewable energy. This division of primary responsibility for climate change and renewable energy is an important structural change as the majority of mitigation activities take place in the energy sector. The Federal Ministry of Food, Agriculture and Consumer Protection, and policies implemented at the state level also play a role. Federal policies include the Bavarian Climate Programme 2020, which includes the goal of reducing annual energy-related carbon emissions to below six tons per capita, an increase in energy productivity by 30%, an increase in renewable energy in electricity to 50% and an increase in biomass in the production of primary energy to 10%, all by 2020.

Energy supply

Building on national climate policy programmes of 2000 and 2005, Germany launched its first national climate change and energy programme in 2007 and a

second package in 2008. In 2010 the government launched its Energy Concept for an Environmentally Sound, Reliable and Affordable Energy Supply. This strategy included an extension of the operation of its nuclear reactors (by an average of 12 years) and the expansion of energy from renewable sources. However, following the Fukushima disaster in Japan in 2011, the government reassessed the risks associated with nuclear power, decided to return to phasing out nuclear energy by 2022 without increasing its ambition for energy from renewable sources. In 2011 the government amended the Atomic Energy Act to put these changes into law.

A steady increase in the use of energy from renewable sources is of fundamental importance in German climate change legislation. The Renewable Energy Sources Act (2000), most recently amended in July 2014, remains the most important instrument for expanding the use of energy from renewable sources. This law (as part of amendments made in 2008) set a target to generate 35% of electricity supply from renewable energy resources by no later than 2020.

In line with the Meseberg Integrated Energy and Climate Programme, new instruments were introduced under the Renewable Energies Heat Act in 2008, which is designed to foster the use of renewable energy for heat supply. Given that around half of energy consumption goes to supplying heat and for refrigeration, the aim of this Act is to reduce energy consumption by improving energy efficiency, partly through the Energy Saving Ordinance (EnEV), and switch the remaining energy consumption over to energy from renewable sources.

The Act on Demonstration and Application of Technologies for Capture, Transport and Permanent Storage of Carbon Dioxide (CCS), transposing the EU Directive on CCS, was adopted in 2012, after a long conciliation process between the upper and lower chambers. The federal regions represented in the Federal Council demanded the introduction of an annual storage limit of 4 million tonnes of CO₂, as well as provisions granting discretionary powers to the regions on the authorisation of CCS demonstration sites on the basis of alternative uses for sites, their geological features and public opposition. Subsequently, the regions that are potentially relevant as sites for CCS have enacted regional-level laws that prohibit CCS on their territory.

At a federal level, the government adopted the Power Grid Expansion Act (EnLAG) in 2009 as well as the Grid Expansion Acceleration Act (NABEG) in 2011 to facilitate a quicker expansion of the grid to enable the connection of more renewable energy capacity. This is particularly relevant for electricity transmission grids transporting wind power from the North to the consumption centres of the West and South. However, actual implementation of the grid expansion detailed in these acts has been slower than anticipated. The revised Energy Industry Act (EnWEG) is also intended to create a stronger foundation for smart grids and storage facilities, with another revision (referred to as the Market Design Act) intended to occur in 2016. The federal level government also

enacted a Federal Requirement Plan Act (BBPIG) to help ensure the required grid (overlay) capacities are created quickly.

The government has introduced a package of rules that simplifies the procedure for feeding biogas into the gas grid. The package includes a revised Gas Grid Access Ordinance 2008 and the Gas Grid Fee Ordinance 2008. The Meseberg Integrated Energy and Climate Programme contained a 17% target for biofuels (% based on energy content) by 2020. The legal basis is provided by the Biofuel Quotas Act of 2009. Germany also transposed the European Renewables Directive requirements on sustainable biomass production into national law by means of the Federal Biofuels Sustainability Ordinance in 2009.

Energy demand

In 2012, Germany was the eighth-largest energy consumer in the world and the country relies on imported energy to meet most of its energy demand. About 37% of its total primary energy consumption comprises petroleum and other liquids, with the remainder made up of coal (24%), natural gas, nuclear and energy from renewable sources.

In July 2014 Germany was ranked as the most energy efficient country in the world by the American Council for an Energy Efficient Economy (out of 16 countries studied). The country has a multi-pronged strategy for energy efficiency, such as the NAPE and the Energy Saving Ordinance (EnEV) which operates in the building sector to tighten restrictions on primary energy use and transmission heat loss. An amendment of the Energy Saving Ordinance in 2013 provides for a harmonisation of standards by 2020 for new buildings with the future European standard for nearly zero-energy buildings. It requires that new buildings will have to be nearly zero-energy buildings (buildings owned and used by public authorities from 2019, all other new buildings from 2021). A nearly zero-energy building is one that “has a very high energy performance. The nearly zero or very low amount of energy required should be covered to a very significant extent by energy from renewable sources, including energy from renewable sources produced on-site or nearby”.

Other energy efficiency policies include the 2010 Energy and Climate Fund, out of which an Energy Efficiency Fund (EEF) was established, and funding for the National Climate Initiative (NKI) was increased. Funding for the EEF is EUR300m (USD376.5m) for 2015. The NKI is currently funded through revenues from auctioning emission allowances under the EU ETS, approximately EUR280m (USD351.4m) per year. The NKI provides funding for four major support programmes, targeting climate projects in cultural, social and other public institutions, small-scale CHP plants, industry-grade refrigeration technologies and biomass use. It also supports individual projects such as innovation support, awareness campaigns and diffusion of energy efficiency technologies.

In order to comply with stringent energy efficiency criteria (any products and services procured should have best performance with regard to energy

efficiency), the government amended the Ordinance on the Award of Public Contracts in 2011. The Heat Cost Ordinance was also amended in 2009 to foster energy-saving behaviour among tenants of rented premises. The law for energy labelling implementing the EU Directive on energy performance labels for energy-related products was adopted in 2012.

Amendments to the Combined Heat and Power Act in 2008, 2009 and 2012 increased the percentage share of high-efficiency combined heat and power (CHP) plants in electricity and heat generation (primary energy use over 90%) from 12% in 2008 and 2009 to reach a 25% share of the total conventional energy generated by 2020. District heat networks will also be expanded. The government amended the Combined Heat and Power Act in 2011 and again in 2012 to strengthen energy production in CHP plants.

REDD+ and LULUCF

The Federal Ministry for Education and Research is funding a number of measures, including the Forest and Climate Fund and the project “Interdependencies between Land Use and Climate Change Strategies for a Sustainable Land Use Management in Germany”. This runs from 2010 to 2015, to evaluate the mitigation and adaptation potential of various land management strategies across the major land-using sectors in order to develop sustainable land management strategies.

Transportation

For road transportation, improvements are expected in the statutory reduction targets for CO₂ emissions per kilometre (regulated by EU legislation). Among other things, these include enhanced engine efficiency and incentives for improving electric mobility. Consumer-side incentives come in the form of revised fuel consumption labelling for private vehicles (Ordinance on Fuel Consumption Labelling for Cars, last amended in 2006).

Adaptation

In 2008 Germany adopted the ‘German Strategy for Adaptation to Climate Change’, followed in 2011 by the ‘Adaptation Action Plan of the German Adaptation Strategy’. The action plan sets out activities at the national level and activities undertaken by the Federal Government that are jointly initiated with the 16 states. Examples include the adaptation of federally-owned public infrastructure such as railways, and a funding scheme promoting climate change adaptation at individual company and local authority level.

Germany: Legislative portfolio

Name of law	Carbon Capture and Storage Act (KSpg)
Date	24 August 2012
Summary	<p>This Act ensures a permanent storage of CO₂ in underground rock layers in a way that protects humanity and the environment and takes the responsibility for future generations into consideration. The law regulates the exploration, testing and demonstration of the permanent CO₂ storage technology. It is the national-level implementing legislation for the EU Directive on the geological storage of CO₂.</p> <p>It provides for an annual storage of no more than 1.3m tons of CO₂ and a maximum storage capacity of 4m tons of CO₂ per year in Germany. It also stipulates that permits can only be granted if an application for a CO₂ storage facility has been made by 31 December 2016. States may enact regional-level laws to prevent CCS facilities from being established in their territory.</p>

Name of law	Grid Expansion Acceleration Act (NABEG)
Date	28 July 2011
Summary	<p>The intent of this Act is to expand grid infrastructure to encourage renewable energy supply. It prescribes a package of measures to reduce the time required for planning and approval procedures for interstate or international very-high voltage lines pursuant to the EnLAG. The objective is to create optimum investment conditions and promote acceptance of line construction among involved and affected persons and associations. The Act provides the basis for efficient, transparent and ecological expansion of the transmission grid in the area of interstate and international very-high voltage lines pursuant to the EnLAG.</p>

Name of law	Energy and Climate Fund Act (EKFG)
Date	28 September 2010
Summary	<p>This Act creates the Energy and Climate Fund. The fund is to be used for the promotion of an environmentally-friendly, reliable and affordable energy supply, for instance with respect to energy-efficiency. Revenue will mainly come from a contractual agreement of the nuclear power plant operators with the German state that skims off part of their extra profits. In addition, it will be funded by parts of the nuclear fuel rod tax and the auctioning of emission allowances as of 2013.</p>

Name of law	Power Grid Expansion Act (EnLAG)
Date	21 August 2009
Summary	<p>The intent of this Act is to accelerate the expansion of Germany's transmission grids. It describes 23 projects given "absolute priority" for future power supply and also regulates the use of high voltage underground cables in the transmission grid.</p>

Name of law	Renewable Energies Heat Act (EEWärmeG)
Date	7 August 2008, amended 2009 and 2011
Summary	<p>The regulatory core of the Act comprises the statutory obligation to cover a percentage of heat demand from energy from renewable sources. The percentage involved depends on the type of energy used and ranges from 15% for solar energy to 50% for biofuel. However, the obligation to meet heat demand using renewables may be replaced by other measures, e.g., high-performance CHP plants.</p>

It is hoped that the share of renewables in heat supply will be increased from the current 6.6% to 14% in 2020. An annual EUR500m (USD 627.5m) in funding will be made available up to 2012 to promote energy efficiency in buildings.

Name of law	Biofuel Quota Act (BioKraftQuG)
Date	01 January 2007, amended on 17 September 2009
Summary	The legal basis for the Meseberg Integrated Energy and Climate Programme, which contained a 17% target for biofuels by 2020. Under the Act, a growing percentage of fuel for use in motor vehicles must be produced from biomass. The German Advisory Council on the Environment found the target to be far too high, and favours biomass use in stationary CHP plants. The European Union in of the Renewable Energy Directive prescribes a renewables share of only 10% for the transportation sector.

Name of law	Energy Industry Act (EnWG)
Date	13 July 2005 (amended in 2008 and 2011)
Summary	A framework policy to enhance competition, security of supply and sustainable energy production. It requires electricity labelling according to type of energy source, providing greater information on electricity sources to allow consumers to make informed decisions about suppliers.

Name of law	Combined Heat and Power Act (KWKG)
Date	19 July 2002, amended in 2008, 2009 and 2012
Summary	This Act aims to increase electricity generation from CHP plants, to support the launch of the fuel cell sector and funding for construction and expansion of heating and cooling systems. The law intends to contribute to an increase in electricity generation from CHP by 25% by 2020 through the modernisation of existing and construction of new CHP plants.

It replaces a 2000 law on CHP. Both laws are primarily intended to promote large CHP plants affected by decreasing electricity prices as a consequence of liberalisation. At the same time the share of CHP-produced electricity was to increase to lower CO₂ emissions by 23m tonnes by 2010. Half of this target is to be achieved by the CHP law, the other half by a voluntary agreement with industry. Renewable energy technologies not covered by the EEG may benefit from this law, including co-firing of biomass in fossil-fuelled power plants and biomass-fired CHP larger than 20MW. The premium cannot be combined with other support, particularly not with the EEG.

In the original (2002) act, only the CHP share of the quantity of electricity produced was subsidised, which was fed into the grid at all voltage levels for general supply. With effect from 1 January 2009, CHP electricity that is fed into non-public grids or is used for self-supply is also subsidised. Subsidies for new heat networks or expanding heat networks were also included.

The 2009 amendment aims to increase electricity generation from CHP plants by promoting the modernisation and construction of CHP plants, support for the fuel cell sector and the funding for the construction and expansion of heating and cooling systems, and the construction and extension of heat and cold storage capacity. With the amendments in 2008 and 2009, the percentage share of high-efficiency CHP plants in electricity and heat generation (primary energy use over 90%) will be increased from 12% to 25%. District heat networks will also be expanded.

Name of law	Renewable Energy Sources Act (EEG)
Date	25 February 2000, amended most recently in 2014
Summary	<p>This Act replaced the law on feeding electricity from renewable resources into the public grid of 1990. The instrumental core of the former Electricity Grid Feed Act has been retained: grid operators must feed renewables-generated electricity into the grid and charge a state-prescribed price for it. However, the regulatory approach has been updated and made more sophisticated under the new Act. The Act aims to generate 35% of electricity supply from renewable energy resources by 2020 (amended from 30% after the Fukushima disaster). Longer term targets include the share of renewable electricity at 40-45% by 2025, 55-60% by 2035 and 80% by 2050.</p> <p>The 2012 amendment (Act amending the regulatory framework for electricity from PV) introduced monthly tariff depressions in the national feed-in tariff (FiT), replacing the annual FiT cut that typically occurs in January. A EUR50m (USD62.7m) research and development programme for PV storage solutions was also established, started in January 2013.</p> <p>The 2014 amendment introduced four major changes:</p> <ul style="list-style-type: none"> • A deployment corridor for wind, photovoltaics and biomass was set in order to avoid overshoots • Direct marketing is now mandatory for all new installations (with minor exceptions) • It lays the foundation for tendering of support from 2017 onwards • It removes several subsidies and exemption for energy-intensive consumers and “prosumers”

Name of law	Energy Consumption Labelling Act (EnVKG)
Date	1997, most recently amended 17 May 2012
Summary	<p>This Act provides the basis for energy labelling (i.e. of products) in Germany. It stipulates the labelling requirements for products with regard to their energy consumption, consumption of other important resources, and their carbon footprint. This may take the form of labels indicating consumption, product information, or advertising information.</p> <p>The 2012 amendment transposes the EU Energy Labelling Directive into national law. It introduces new classes of labelling (previously only A-G, now up to A+++), and introduces an amendment that means that not only energy-consuming equipment, but also energy-related products, which themselves do not consume energy, but can have great impact on energy consumption, are marked with the EU energy label.</p>

Name of law	Energy Saving Act (EnEG)
Date	1976, most recently amended on 4 July 2013
Summary	<p>This Act provides the fundamental basis for much of current energy efficiency policy, most notably the Heating Cost Ordinance and the Energy Saving Ordinance.</p> <p>The Energy Saving Ordinance (2007) specifies the basic obligation that new buildings will have to be “Nearly Zero Energy Buildings” (buildings owned and used by public authorities from 2019, all other new buildings from 2021). It was amended in 2009, with the requirements for restricting primary energy use and transmission heat loss being significantly tightened. The Federal Government expects these measures to effect a 20% reduction in CO₂ emissions in the buildings sector by 2020.</p>

Germany: Executive portfolio

Name of policy	Action Programme on Climate Protection 2020
Date	03 December 2014
Summary	<p>Published by the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety, and adopted by cabinet, the Action Programme on Climate Protection 2020 contains measures to be implemented by 2020 in order to reach Germany's goal of cutting GHGs by at least 40% compared with 1990 levels. It comprises nine main components:</p> <ul style="list-style-type: none"> • National Energy Efficiency Action Plan (NAPE) • Strategy on climate-friendly building and housing • Measures in the transport sector • Reduction in non-energy related emissions in: <ul style="list-style-type: none"> ◦ Industry, commerce/trade/services and waste management ◦ Agriculture • Emissions trading reform • Further measures, especially in the electricity sector <p>The action programme will lead to a reduction of 62m-78m tonnes CO2 equivalent in 2020 compared with the current projection for 2020. In addition to this a further 3m-4m tonnes can be saved through soft, cross-sectoral measures, which means that the programme can bring about a total reduction of 82m tonnes.</p>

Name of policy	Energy Concept for an Environmentally Sound, Reliable and Affordable Energy Supply
Date	28 September 2010
Summary	<p>The Federal Government's Energy Concept for an Environmentally Sound, Reliable and Affordable Energy Supply sets out a long-term energy strategy to 2050 that will provide an environmentally sound, reliable and affordable energy supply. Scientifically-tested monitoring every three years, to be published. Methodology is to be established. It includes the following targets: Reduce emissions to 40% below 1990 levels by 2020; to 55% by 2030; to 70% by 2040 and to 80–95% by 2050.</p>

Name of policy	German Strategy for Adaptation to Climate Change (DAS)
Date	17 December 2008, amended 2011
Summary	<p>The Strategy creates a framework for adapting to the impacts of climate change. It primarily describes the contribution of the Federation, thus acting as a guide for other actors. The Strategy lays the foundation for a medium-term, step-by-step process undertaken in co-operation with the federal states and other civil groups and aimed at assessing the risks of climate change, identifying the possible need for action, defining appropriate goals and developing and implementing options for adaptation measures.</p>

Name of policy	Integrated Climate and Energy Programme (IEKP)
Date	2007, amended 2008
Summary	<p>This programme has as its guiding principles security of supply, economic efficiency and environmental protection. The integrated climate and energy programme aims to cut GHG emissions by 40% by 2020 compared with 1990 levels.</p> <p>Through 29 measures, the programme addresses issues including CHP generation, the expansion of renewable energy in the power sector, carbon capture and sequestration technologies, "smart" metering, clean power station technologies, the introduction of</p>

modern energy management systems, support programmes for climate protection and energy efficiency (apart from buildings), energy efficient products, provisions on the feed-in of biogas to natural gas grids, an energy savings ordinance, a modernisation programme to reduce CO₂ emissions from buildings, energy efficient modernisation of social infrastructure, the Renewable Energies Heat Act, a programme for the energy efficient modernisation of federal buildings, a CO₂ strategy for passenger cars, the expansion of the biofuels market, reform of vehicle tax on the basis of CO₂, energy labelling of passenger cars, reinforcement of the influence of the HGV toll, aviation, shipping, the reduction of emissions of fluorinated GHGs, procurement of energy efficient products and services, energy research and innovation, electric mobility, international projects on climate protection and energy efficiency, reporting on energy and climate policy by German embassies and consulates, and a transatlantic climate and technology initiative.

It includes the following targets:

- Energy supply: to double electricity generation from CHP to 25%; approval of 850km underground grid to transport offshore wind energy to the south
 - Energy demand: Energy-related requirements for new homes and fully renovated old homes to target a 30% reduction in energy use; also rules on replacement of central heating boilers and new standards for windows and the insulation of building facades. Incentives for “smart” meters; reform of the Energy Saving Ordinance
 - Transportation: Increase in road tolls for trucks; reform of vehicle tax to a pollutant and CO₂ emissions basis; amendment to the Passenger Car Energy Consumption Labelling Scheme
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