



CURRENT PROBLEMS OF PUBLIC ADMINISTRATION АКТУАЛЬНЫЕ ПРОБЛЕМЫ ГОСУДАРСТВЕННОГО УПРАВЛЕНИЯ

DOI: 10.22363/2312-8313-2019-6-4-259-267

Research article

Impact of Regulatory and Enforcement Activities in Environmental Protection

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Abstract. Sociological surveys demonstrate that the public ranks environmental risks very high. Therefore, reforming regulatory and enforcement activities in the area of environmental protection is an important factor aimed at minimizing these risks. These efforts are undertaken in a broader context of regulatory and enforcement reforms aimed at minimizing risks to public values. The article evaluates the current status of regulatory and enforcement activities in the area of environment protection and compares this data with statistical and sociological sources. Based on this evaluation, the article concludes that regulatory and enforcement activities have limited effect on environmental protection, and there is a need for better targeting inspection activities to ensure minimization of environmental risks.

Keywords: inspections, effectiveness, environment, regulatory and enforcement reform, sociological surveys

Regulatory and enforcement reform was included in the *Main Directions of RF Government Activities till 2024* as a priority area aimed at decreasing excessive burden on businesses while ensuring protection of public values which could be both of personal nature, such as life, health, property, and of public nature (i.e. environment, historic and cultural monuments, public safety). This reform assumes, inter alia, implementation risk-oriented approach to inspection activities, stimulating voluntary compliance, focusing on risk prevention and mitigation. Notably, a recent sociological survey conducted by Levada center suggested that 48 percent of Russian citizens find environmental pollution a global threat; and this threat is higher than international terrorism¹. Therefore, implementing successful

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¹ The Russians called the pollution of nature a threat worse than terrorism. *RBC.ru*. 23.01.2019. Available from: <https://www.rbc.ru/politics/23/01/2020/5e2893299a79472b28203508>. Accessed: 01.12.2019 (In Russ.).

regulatory and enforcement reform in the area of environmental protection is of significant public importance. It is also supposed to contribute to more general efforts aimed at environmental protection in the framework of *Ecology* national project underway since 2019.

Control and enforcement activities in the area of environmental protection in Russia are conducted by a few federal executive bodies and also by regional authorities; however, the key federal authority responsible for minimizing environmental risk is the Federal Environmental Service (Rosprirodnadzor)².

The annual report on conducting state control (supervision) and its efficiency in 2018 [1] suggests that in 2018 Federal Environmental Service conducted some 11,639 inspections and initiated over 38 thousand administrative cases. In addition, some 5,932 administrative cases were transferred to the Federal Environmental Service in accordance with its competence. Over the past years the number of inspections has decreased significantly (for instance, in 2014 some 19,251 inspections were conducted; in 2015 – 17,241).

As a result of enforcement activities conducted by Federal Environmental Service some 28,9 thousand places of illegal waste placements occupying some 2738.5 hectares were liquidated (73.8 percent of total number of detected cases).

In 2018 Federal Environmental Service conducted 824 unplanned inspections based on reports from the public and legal entities, information from other authorities or mass media. In 416 cases these reports contained information about threat or facts of damage to environment. Overall, the share of unplanned inspections conducted based on these feedback mechanisms accounted for only some 10 percent of total number of unplanned inspections (9693). Thus, the feedback mechanisms are not fully used to guide and target inspection activity.

During control and inspection activities in 2018 Federal Environmental Service detected 901 cases of damage to the environment. Almost half of these detected cases (427 or 47 percent of total) were related to harm to water objects. Some 338 detected cases or 38 percent of total were related to damage to soil (i.e. by misplacing waste, etc.). The cases when subsoil or protected areas were damaged were less common, i.e., 78 and 58 cases, respectively (Fig. 1).

Federal Environmental Service does not report any cases of damage to atmosphere. However, the data published by Rosgydromet [2] suggests that in 2018 in 37 Russian cities annual concentrations of one or more pollutants exceeded the maximum acceptable levels. The list of cities with maximum air pollution level in 2018 (Priority list) contained 22 cities. This priority list has grown by 3 cities for the previous 5 years. In 143 cities (or 58 percent of cities where air quality monitoring is conducted) average annual concentration of one pollutant exceed one maximum acceptable level. Some 56,0 million people live in these cities. Overall, in 2018 Rosgydromet detected 219 cases of high or extremely high air pollution (when maximum acceptable concentration was exceeded 10 times or more).

² Some control and enforcement functions are also performed by the Federal Service of Technological Supervision (Rostekhnadzor).

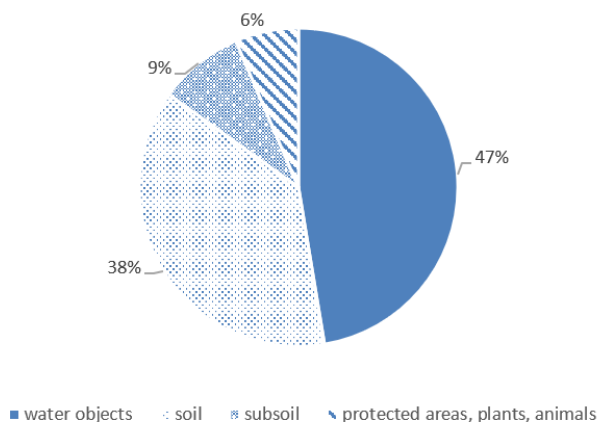


Fig. 1. Distribution of Damage Cases by Environmental Component

Rosgydromet data also suggest higher level of water pollution. This data demonstrates that extremely high pollution levels of surface water were detected in 631 cases at 133 water objects (in 2017 – 6243 cases at 128 water objects), high pollution levels – in 2112 cases at 312 water objects (in 2017 – 2121 cases at 330 water objects). Simultaneously, total number of damage cases detected by the Federal Environment Service accounted for only 427 cases.

This discrepancy of data on damage frequency as reported based on environment pollution monitoring and based on the state environmental control demonstrates that these monitoring results are not used for conducting unplanned inspections. Therefore, the impact of regulatory and enforcement activities in minimizing the risks of environmental pollution is limited.

To-date, Federal Environmental Service has implemented risk-oriented approach to inspections in the framework of environmental control, including control over geological research, rational use and protection of subsoil, state land supervision, supervision in the area of waste processing, supervision in the area of air protection, and in the area of use and protection of water objects. Implementation of risk-oriented approach assumes that each object (i.e. production facility) is assigned a risk category depending on the level of potential damage operation of such object may cause to the environment.

As of end 2018, some 93.3 thousand of objects were included into the state register of objects with negative effect on the environment. This register includes:

- 254 objects with extremely high-risk category (calls for regular annual inspections);
- 3208 objects with high risk category (calls for regular inspections carried out once every two years);
- 10947 objects with significant risk category (planned inspections are conducted once every three years);
- 26128 objects with average risk category; and
- 42429 objects with moderate risk category;
- 7363 objects with low risk category (Figure 2).

Some 3036 objects have not been assigned a risk category yet.

Categorization of objects allows to reduce inspection frequency for most objects with lower environmental risks and hence reduce administrative burden on businesses related to inspections. Notably, Federal Environmental Service has already implemented a mechanism for increasing or decreasing the risk category for the objects depending on inspection results. Such changes of categories annually affect some 5 percent of the objects included into the register of objects with negative effect on the environment.

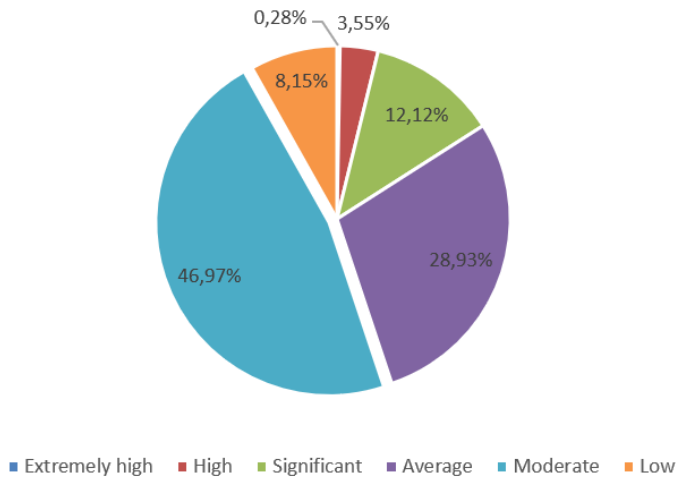


Fig. 2. Distribution of Objects with Negative Effect on Environments by Category (% of total)

However, the available statistical data does not suggest that implementation of risk-oriented approach to inspection activity has led to improvements in inspection targeting so far. For instance, in 2018 violations of legal requirements posing threat to environment were detected as a result of inspection of only 3 percent of businesses; in 0.9 percent of the cases such violations were the cause of environmental damage. To compare, in 2015 these indicators accounted for 5.8 percent and 0.6 percent of total inspected subjects, respectively. In other words, Federal Environmental Service has become less efficient in detecting violations which really pose a threat to the public value it protects; most violations of legal requirements detected as a result of inspection activity (92.9 percent of businesses with violations) do not pose any risk of damage to the environment.

Noteworthy, the analysis of international experience suggests that in other countries environmental services provide different statistics for various types of violations of legal requirements detected (i.e., serious violations; repetitive violations; etc.). Such practice helps to better target inspection and enforcement efforts [3].

Notably, the operations of inspected businesses caused 149 cases of damage to environment, while the total number of such cases detected, as discussed above, accounted for some 901 cases. Thus, the inspections helped to reveal only 16.53 percent of total detected damage cases. Hence, the impact of inspection activity on reducing environmental damage is considered rather low.

Table 1 below summarizes Federal Environmental Service data on the volumes of material damage to the environment structured by the risk categories of objects which were the cause of such damage. Notably, significant damage was revealed as a part of license control activities.

Table 1

**Distribution of material damage to environment brought by the controlled objects
(or businesses operating these objects) in 2018**

Risk category	Number of objects (as of end 2018)	Damage to environment brought by the controlled objects or by businesses operating these objects in 2018, mln. RUR	Damage brought per 1 object in this category, thousand RUR
Federal state environmental supervision			
Extremely high	254	23.52	92.60
High	3208	36.33	11.32
Significant	10947	19.88	1.82
Average	26128	264.59	10.13
Moderate	42429	0.22	0.01
Low	7363	230.32	31.28
No category assigned (risk-oriented approach not implemented)	3036	–	–
Total	93365	574.86	6.16
License control			
Total	15037	938	62.38

Source: Federal Environmental Service, own calculations.

The analysis of the data summarized in the table suggest that most of the damage brought to environment was caused by activity of objects with average and low risks (in absolute terms), while the highest damage per one object in category is noted for the objects with extremely high risks. However, even for such object average risk level accounted for less than 100 thousand RUR per object. To compare, the average cost of inspection accounts for some 159 thousand RUR³. Significant environmental damage caused by the objects categorized as low risk level suggest that the criteria for assigning risks may need additional review.

Utilization of waste or payment of environmental duty is another important mechanism for compensating the damage brought to environment. Overall, in 2018 the amount of environmental duty collected accounted for 2.6 billion RUR.

³ Estimated based on the ratio of total funding of regulatory and enforcement activities and the number of inspections carried out.

Issuing permissions is an important state regulatory mechanism used in the area of biodiversity aimed at minimizing the risks of damage to animals and plants. In 2018, Federal Environmental Service issued 968 permissions, including 636 export permissions, 67 import permissions, 265 re-export permissions. In addition, 129 permissions were issued for extracting protecting species, 235 permissions for keeping such species. Federal Environmental Service does not present any evaluation of impact of such activity on reducing environmental risks.

The results of sociological polls demonstrate that environmental risks are perceived among the highest safety risks in Russia. In accordance with the sociological survey conducted by RANEPa in 2019⁴, only 30.2 percent of citizens find the level of safety of their lives, health and environment from pollution as adequate. Some 13.1 percent of respondents had faced a need to protect themselves and environment from pollution and other environment-related risks for the 2 years preceding the survey. If we extrapolate this data, some 6.5 percent of population faces environmental risks annually. This suggest that actual frequency of damage cases is much higher than detected and reported by the Federal Environmental Service.

Among the respondents who confronted the risk, only 22.1 percent of respondents reported the risk to environmental enforcement authorities and only 17.1 percent of those who reported obtained full response (containing the measures taken to prevent or mitigate risks, identify the liable parties and remove violations of legal requirements) to their reports [4]. Therefore, a small fraction of unplanned inspections conducted by the Federal Environmental Service based on feedback mechanisms (i.e., public reports) does not reflect low risks in the area of environment. On the contrary, sociological data suggest that processing of public reports and other data on environmental risk is insufficiently effective. Better use of feedback mechanisms, such as the portal ‘Our Nature’⁵ could improve targeting of inspection and other enforcement activities undertaken by the Federal Environmental Service.

Noteworthy, Federal Environmental Service considers that damage to environment affects only this public value. However, in a broader sense, pollution causes damage not only to environment per se, but also to the public health. The data published by the Federal Consumer Protection Service suggest that pollution of air, water, and soil in urban and rural areas in 2018 caused some 75.4 thousands of deaths (80 percent of the level noted in 2013) and some 3.0 million illness cases among children and adults (or 70.5 percent of the level achieved in 2013) [5]. While the level of environmental-related damage to public health seems to be decreasing, this factor is still important and should not be neglected.

⁴ The survey was conducted in March 2019 in 35 Russian regions. The sample accounted for 2,000 respondents.

⁵ *Our Nature*. Available from: <https://www.priroda-ok.ru/#/about/howsend>. Based on the data published on this portal, to date 166 reports were recorded and only 64 problems reported solved.

The results of business sociological survey conducted by RANEPА in 2017⁶, some 4.9 percent of respondents noted that environmental regulatory and enforcement activity was one of the most problematic in terms of business administrative costs. This is a comparatively low level of administrative costs. For instance, tax inspections were found the costliest by 23.8 respondents, fire inspections – by some 19.3 percent of businesses surveyed. However, only 2.5 percent of respondents noted that environmental regulatory and enforcement activities helped to improve public safety [6].

The following conclusions can be drawn based on our analysis.

First, the results of the monitoring conducted by Rosgydromet and Federal Consumer Protection Service, as well as sociological data, suggest that environmental risks are much higher than reported by the Federal Environmental Service both in terms of damage cases frequency and in terms of risk scale. Significant discrepancies in data reported by various federal bodies and the data reported by the federal bodies, on the one side, and the sociological surveys – on the other, demonstrate that currently the risks are underestimated.

Second, while implementation of risk-oriented approach is important for managing risks in environmental sphere, so far, the categorization of objects by risk level does not seem to be logical in terms of allocation of actual damage brought to environment. For instance, in 2018 about 40 percent of total damage to environment was caused by the operations of low risk objects which represent some 8 percent of total objects with category assigned. There might be a need for adjustments in the current risk assignment procedure and criteria.

Third, environmental inspections help to detect only some 16.5 percent of total cases of damage detected by the Federal Environmental Service. This suggests that the impact of inspection activity on minimizing risk levels is insufficient.

Fourth, one of the reasons for insufficient impact of inspection activity is poor targeting of inspections (which is partially due to risk categorization issues and partially due to inefficient use of the existing feedback mechanisms). Another problem is that, as reported by businesses, environmental inspections have little influence on maintaining public safety from environmental risks.

Overall, the current status of environmental risks is perceived as inadequate by most of Russian population. Therefore, the task of improving the quality of regulatory and enforcement activity retains its importance.

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⁶ The sample of the survey included 1,000 respondents. Most of respondents represented small and medium enterprises and individual entrepreneurs.

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Научная статья

Влияние контрольно-надзорной деятельности на защиту окружающей среды

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Аннотация. Социологические исследования показывают, что граждане России оценивают экологические риски крайне высоко. Реформирование контрольно-надзорной деятельности в природоохранной сфере является важным фактором минимизации таких рисков. Данные усилия предпринимаются в более широком контексте реформы контрольно-надзорной деятельности, направленной на минимизацию рисков причинения вреда охраняемым законом ценностям. В статье приведена оценка текущего состояния контрольно-надзорной деятельности в сфере охраны окружающей среды на основе статистических и социологических данных. Показано, что деятельность по государственному контролю (надзору) имеет ограниченное влияние на защиту окружающей среды и необходима реализация дополнительных мер по обеспечению повышения ее вклада в защиту граждан от экологических рисков.

Ключевые слова: проверки, результативность, охрана окружающей среды, контрольно-надзорная деятельность, социологические исследования

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Для цитирования:

Dobrolyubova E.I. Impact of Regulatory and Enforcement Activities in Environmental Protection // Вестник Российского университета дружбы народов. Серия: Государственное и муниципальное управление. 2019. Т. 6. № 4. С. 259–267. DOI: 10.22363/2312-8313-2019-6-4-259-267

For citation:

Dobrolyubova E.I. Impact of Regulatory and Enforcement Activities in Environmental Protection. *RUDN Journal of Public Administration*. 2019; 6 (4): 259–267. DOI: 10.22363/2312-8313-2019-6-4-259-267