

New Regulation of Sanitary Protection Zones

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Regulation of Sanitary Protection Zones (**SPZ**) in Russia has always been imperfect and obscure. Definition of the SPZ, its regime, classifications and regulatory limits were originally set out in *sanitary and epidemiological rules*¹ (**SanPiN**), which did not provide adequate regulation of a number of important issues and led to various problems.

On March 15, 2018, a new Government Regulation No. 222 “*On Approval of Rules of Allocation of Sanitary Protection Zones and Use of Land Plots within the Boundaries of Sanitary Protection Zones*”² (**Regulation No. 222**) came into force. It covered several issues that were disputable in the past and changed the order of the establishment of the SPZ.

On January 01, 2019, two laws: Federal law dated 03.08.2018 № 340-FZ³ (**340-FZ**) and Federal law dated 03.08.2018 № 342-FZ⁴ (**342-FZ**) came into force. These laws introduced significant amendments to the Land Code of the Russian Federation and the Town Planning Code of the Russian Federation.

1. WHAT IS A SANITARY PROTECTION ZONE?

Sanitary Protection Zone is established for the facilities (or other “**hazardous objects**” mentioned in SanPiN), which have an influence on the natural environment.



Since 2018 information about the Sanitary Protection Zone must be added to the State Real Estate Register (EGRN), otherwise the SPZ can't be recognized as valid

Establishment of the SPZ reduces the possible use of the land plots and buildings in the borders of this zone. For example, there can be no residential buildings, hospitals, playgrounds, storages of food and drinking water etc.

2. NEW REGULATION OF SPZ ESTABLISHMENT

Both 342-FZ and Regulation No. 222 specify the establishment, alternation and termination of the SPZs. Moreover, these acts regulate the recognition of the SPZs, which are valid, but aren't added to the EGRN.

- ▶ **If an SPZ was established and the information on the existing SPZ was added to the EGRN**, it means that this SPZ is valid in accordance with the new legislation and re-establishment of the SPZ isn't required.
- ▶ **If an SPZ was correctly established according to the previous legislation**, but the information on the zone wasn't added to the EGRN, the SPZ is recognized as valid, but the facility should add the record about its SPZ to the EGRN until 01.01.2022.
- ▶ **If an SPZ was not established and there was neither an "indicative" or "estimated" SPZ**, mentioned in SanPiN, the facility should establish its SPZ till 01.01.2022. A record about this SPZ will be added to the EGRN by *Rospotrebnadzor*⁵.

3. "INDICATIVE" AND "ESTIMATED" SPZ

The current legislation also provides the establishment of the "normal" SPZs instead of the "indicative" and "estimated" SPZs, which will disappear after 01.01.2020 according to the new law.

- ▶ **If an SPZ was not established, but there is either an "indicative" or "estimated" SPZ**, the facility must file an application on establishment of the SPZ or withdrawal of the current "indicative" or "estimated" SPZ till 01.10.2019.

4. RESPONSIBILITY FOR NON-ESTABLISHMENT OF SPZ

The current legislation provides the administrative liability for non-establishment of an SPZ, if a facility has emissions into the atmosphere.

- ▶ **If the facility with the "indicative" or "estimated" SPZ neither applies for the establishment of the SPZ before 01.10.2019 nor withdraws the existing SPZ**, there is a risk that the facility will be fined up to 20.000 RUB or will have to suspend its activity up to 90 days. We estimate this risk as very low (but it may grow in the future): it is unclear whether *Rospotrebnadzor* is going to punish the facilities for these offences or not, because there is no practice of the courts now.
- ▶ **If the facility has no "normal" SPZ, or "indicative" SPZ, or "estimated" SPZ, but has to establish the SPZ and there is any immovable property within the area of the future SPZ**, there is a high risk that this facility will be fined up to 20.000 RUB or will get the order to suspend its activity up to 90 days due to the existence of this immovable property.
- ▶ On the contrary, **if there is no immovable property in the estimated territory of the future SPZ**, then there is a low risk that the facility will be fined up to 20.000 RUB or will get the order to suspend its activity up to 90 days, judging by the practice of the courts.

There is no criminal or civil liability for the non-establishment of the SPZ. But if SPZ was established and immovable property in this zone can't be used by its owners or tenants because of the SPZ, they can claim damages from the facility. The owner of this immovable property can also demand

from the facility to buy out the property instead of claiming the damages. This has not yet been done in practice of courts, but such risk is likely to grow in the future.

MOSGO & PARTNERS LAW FIRM

Tel.: +7 (495) 228 48 78
info@mosgolaw.com
www.mosgolaw.com

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¹ Resolution of the Chief State Sanitary Inspector of the Russian Federation dated 25.09.2007 No. 74 «On the Implementation of the New Edition of Health and Hygiene Rules and Standards of the SanPiN 2.2.1/2.1.1.1200-03 "Sanitary protection zones and sanitary classification of the industrial facilities, constructions and other objects"» (Registered in the Ministry of Justice of the Russian Federation 1/25/2008 No. 10995).

² Regulation of Government of the Russian Federation dated 03.03.2018 No. 222 «On Approval of Rules of Allocation of Sanitary Protection Zones and Use of Land Plots within the Boundaries of Sanitary Protection Zones».

³ Federal law dated 03.08.2018 № 340-FZ "On Amendments to the Town Planning Code of the Russian Federation and certain legislative acts of the Russian Federation"

⁴ Federal law dated 03.08.2018 № 342-FZ "On Amendments to the Town Planning Code of the Russian Federation and certain legislative acts of the Russian Federation"

⁵ Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing