

***Overview of current environmental legislation in the framework of the project
“Air pollution and the Arctic climate”***

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Section I

The goal of the present overview is to analyze existing legislation of the Russian Federation related to the prevention of forest and agricultural fires, by means of:

- prohibiting burning agricultural waste (grass, stubble), and
- elaboration of recommendations for improving and perfecting federal legislation in this direction in order to reduce the number of forest and agricultural fires in the Russian Federation.

The main tasks of this overview, in accordance with the formulated goal of this research, are:

- 1) Investigation of Russian federal legislation on rules related to burning dry agricultural plant-based waste;
- 2) Investigation of legislation of the federal subjects of the Russian Federation on rules related to burning dry agricultural plant-based waste and its enforcement; and
- 3) Suggested ways to optimize legislation.

Section II

Investigation into Russian federal legislation for rules related to burning dry agricultural plant-based waste

Federal environmental legislation regulates the basic state of affairs in the area of environmental protection.

The Constitution of the Russian Federation states that it is the duty of each citizen to protect nature and the environment and treat natural resources with care (Art.58); and guarantees the right to a favorable living environment, reliable information about its state, and compensation for damage to health or property by infringement of environmental law (Art.42). Issues of environmental protection and safeguarding environmental security are under the joint jurisdiction of the Federation and its subjects (Art.72).

Among the important normative legal acts of federal significance that establish general legal regulations in the area of protection of the atmosphere are:

- Federal Law, “On Environmental Protection” of 10 January 2002, № 7-FZ;
- Federal Law, “On the Protection of the Atmosphere” of 4 May 1999, № 96-F3;
- Federal Law, “On Waste from Production and Consumption” of 24 June 1998, № 89-F3;

- Federal Law, “On Wildlife” of 24 April 1995, № 52-F3.

Regulations pertaining to the prohibition of burning agricultural waste responsible for air pollution are set by the Rules establishing Fire Prevention Regime, ratified by the Decree of the Government of the Russian Federation of 25 April 2012, № 390 “On the Fire Prevention Regime.” Clause 218: “Burning of stubble and crop residues and lighting fires on fields is prohibited.”

These rules were put into action as a substitute for the Fire Safety Regulations of the Russian Federation from 2003 (ППБ/РРВ 01-03) that had become inoperative, in accordance with the new Decree of the Ministry of Emergency Situations of the Russian Federation (EMERCOM) of 31 May 2012, № 306, “On the recognition of the expiration of the EMERCON decree of 18 June 2003, № 313.”

Such a substitution is conditional on Article 16 of the Federal Law, “On Fire Protection,” of 21 December 1994, № 69-F3, and in particular on the authority of the Russian government, that ratifies the normative legal act establishing the fire prevention regime. The necessity of the elaboration and implementation of such a document was defined by Article 1, Section 3, Clause “b” of the Federal Law, “On the introduction of changes in independent legal acts of the Russian Federation in connection with the adoption of the Federal Law ‘Technical regulations on the requirements of fire safety.’” In spite of these new developments, Clause 218 of the Rules establishing Fire Prevention Regime in the Russian Federation of 2012 is a simple copy of Clause 327 of the Fire Safety Regulations of the Russian Federation from 2003. Although even these latest Rules were ratified by the highest organ of executive power of Russia, no changes have occurred in practice.

Article 28 of the Federal Law, “On Waste from Production and Consumption,” of 24 June 1998, № 89-F3 establishes that “officials and citizens that fail to fulfill or poorly fulfill the rules imposed by Russian legislation related to waste management are subject to disciplinary, administrative, criminal or civil obligations, in conformity with the legislation of the Russian Federation.”

For example, according to Article 20.4 of the Code on Administrative Offenses of the Russian Federation, violating the rules for fire protection “entails a warning or the imposition of an administrative fine on citizens of 1,000-1,500 rubles, on officials of 6,000-15,000 rubles, and on legal entities of 150,000-200,000 rubles,” furthermore, “the same behavior conducted under conditions of a special fire prevention regime entails the imposition of an administrative fine on citizens of 2,000-4,000 rubles, on officials of 15,000-30,000 rubles, and on legal entities of 400,000-500,000 rubles.”

Section III

Investigation into legislation of federal subjects of the Russian Federation for rules related to burning dry agricultural plant-based waste

Whereas “the questions of environmental protection and ecological security are placed under the joint authority of the Federation and its subjects” (Art.72 of the Constitution of the Russian Federation), the superior legislative bodies of the subjects of the Russian Federation have the right to adopt their own legal acts containing regulations for burning agricultural waste (grass,

stubble) and assuming legal responsibility in the case of violation of these regulations.

We can cite as instances the following subjects of the Russian Federation that have implemented legislative control over burning dry agricultural plant-based waste:

1) Voronezh Oblast

Article 14.1, Section 3 of the Law of Voronezh Oblast of 5 July 2005, № 48-OZ, "On environmental protection and ecological security on the territory of Voronezh Oblast" reads, "... it is prohibited to burn dry grass, stubble, straw and other vegetal and felling residues on agricultural land."

Violating said regulations in accordance with Article 38 of the Law of Voronezh Oblast of 31 December 2003, № 74, "On administrative violation on the territory of Voronezh Oblast," "... entails the imposition of an administrative fine on citizens of 1,000-2,000 rubles, on officials of 3,000-5,000 rubles, and on legal entities of 30,000-50,000 rubles. The same behavior conducted under conditions of a special fire prevention regime entails the imposition of an administrative fine on citizens of 2,000-5,000 rubles, on officials of 10,000-50,000 rubles, and on legal entities of 100,000-250,000 rubles."

2) Altai Krai

Article 9, Section 2, Clause 8 of the Law of Altai Krai of 1 February 2007, № 3-ZC, "On environmental protection in Altai Krai," implements the prohibition on, "burning weeds and residues of vegetation on agricultural land."

According to Article 40.1 of the law of Altai Krai of 10 July 2002, № 46-ZC, "On administrative liability for law violation on the territory of Altai Krai," the violation of the given prohibition, "entails the imposition of an administrative fine on citizens of 1,500-2,000 rubles, on officials of 3,000-4,000 rubles, and on legal entities of 30,000-40,000."

3) Kursk Oblast

In accordance with Article 64 of the Law of Kursk Oblast of 4 January 2003, ZKO № 1, "On administrative violations in Kursk Oblast", "Burning dry grass in grasslands, in woodland belts, in gullies, on roadsides, near livestock and poultry farm buildings, near stogovischa (built areas for haystacks) and other products, artificial and natural, of horticulture activities, entails the imposition of an administrative fine on citizens of 100-1,000 rubles, on of 2,000-3,000 rubles, and on legal entities of 20,000-30,000 rubles."

4) Some subjects of the Russian Federation have legal regulations implemented by executive authorities, for example:

a) Decree of the Government of the Republic of Ingushetia of 22 July 2010, № 234, "On the measures to counteract burning of dry vegetation on the territory of the Republic of Ingushetia",

- b) Decree of the Government of the Republic of Dagestan of 13 August 2012, № 273, “On the measures to counteract burning of dry vegetation on the territory of the Republic of Dagestan”,
 - c) Decree of the Government of the Republic of North Ossetia-Alania of 31 August 2012, № 221, “On the measures to counteract burning of dry vegetation on the territory of the Republic of North Ossetia-Alania”,
 - d) Decree of the Government of the Kabardino-Balkar Republic of 10 March 2011, № 62-PP, “On the measures to counteract burning of dry vegetation on the territory of the Kabardino-Balkar Republic”; and
 - e) Decree of the Government of the Karachay-Cherkess Republic of 4 March 2011, № 57, “On the prohibition of burning dry vegetation on the territory of the Karachay-Cherkess Republic.”
- 5) The legal framework of Rostov Oblast concerning the matter at hand deserves special attention.

By way of preventing forest fires and destruction of wildlife and its habitat, the Rostov government adopted the Decree of the Administration of Rostov Oblast of 15 April 1996, № 120, “On the ratification of rules for burning dry vegetation.” In accordance with the Decree, the burning of crop residues was allowed under conditions set by fire safety measures. “Agricultural burning (of grass, stubble on fields, post-harvest residues) should be administered only by decision of regional administration with the approval of regional game wardens from the Administration of game management, or representatives of agencies for environmental, natural resource and fire protection. Agricultural burning should be conducted in early spring and late fall.”

However, the decree did not produce the expected results, for which reason the administration of Rostov Oblast adopted a new decree on 22 July 2004, № 296, “On the rules for burning dry vegetation on the territory of Rostov Oblast.” The decree established, “... that burning dry vegetation and administering agricultural fires on the territory of Rostov Oblast is prohibited, except in cases when the goal is to prevent forest fires during high fire hazard seasons, as well as other cases which have been approved by agencies for state fire supervision, governmental environmental protection, protection, control, regulation of the use of wildlife and its habitat, use and protection of the forest fund and rehabilitation of forests.”

The next step in the given direction was the Decree of the Administration of Rostov Oblast of 8 October 2008, № 493, “On the measures to counteract burning of dry vegetation on the territory of Rostov Oblast”, according to which it was prohibited to burn dry vegetation on all of the territory of the oblast, with the exception of cases established by federal legislation.

The legislation operating today was finally adopted as the Decree of the Government of Rostov Oblast of 30 August 2012, № 810, “On the measures to counteract burning of dry

vegetation on the territory of Rostov Oblast,” a copy of the previous decree, prohibiting the burning of dry vegetation on all of the territory of the oblast, with the exception of the cases established by federal legislation.

The Law of Rostov Oblast of 25 October 2002, № 273-ZC, “On administrative law violations” creates accountability for “burning dry vegetation in violation of the requirements implemented by normative legal acts of Rostov Oblast” in the form of “the imposition of an administrative fine on citizens of 1,000-2,000 rubles, on officials of 10,000-20,000 rubles, and on legal entities of 40,000-50,000 rubles.” Moreover, if these acts result in the destruction of trees and shrubbery and other vegetation or wildlife, then an “administrative fine on citizens of 3,000-5,000 rubles, on officials of 20,000-40,000 rubles, and on legal entities of 100,000-200,000 rubles” should be imposed.

In the course of investigating the legislation of the subjects of the Russian Federation that contain regulations for burning agricultural waste (grass, stubble), it has been observed that the majority of the subjects of the Russian Federation do not have normative acts containing legal regulations dealing with the problem.

Section IV

Enforcement of legislation related to burning dry agricultural plant-based waste in the subjects of the Russian Federation

A pressing problem in regulating the burning of dry agricultural plant-based waste is law enforcement, and in particular bringing charges against offenders. Whereas in most cases the violation of fire safety regulations related to burning dry agricultural waste falls within the purview of administrative rights, this section will investigate administrative accountability and rules pertaining to the related legal proceedings.

According to monitoring, we can observe that different government agencies are responsible for bringing charges against law violators in different subjects of the Russian Federation. The main reason for this is the diversity of administrative regulations in cases of fire safety violation regulations.

For example, in 2001, violations of Article 7, Section 7 of the Law of Vladimir Oblast of 14 February 2003, № 11-OZ, “On administrative law violations in Vladimir Oblast”, that creates accountability for burning dry grass, trash, leaves and domestic and industrial waste, occasioned 484 administrative reports to be drawn up in the oblast in 9 months. 147 of these were drawn up by officers of the State Inspectorate for Administrative and Technical Supervision of the Administration of Vladimir Oblast, 313 by officers of local police departments, and 24 by representatives of self-government agencies. The imposed fines amounted to a total of 335,000 rubles.

As another example, Article 63 of the Law of Kursk Oblast of 4 January 2003, ZKO № 1, “On administrative law violations in Kursk Oblast,” delegates the responsibility to officers of self-government agencies, local police departments, and also nature management and geological

agencies of Kursk Oblast to arrest law violators liable for, "...burning dry grass in grasslands, in woodland belts, in gullies, on roadsides, near livestock and poultry farm buildings, near stogovischa (built areas for haystacks) and other products, artificial and natural, of horticulture activities."

In Oryol Oblast, government fire inspectors of the Oblast drew up 85 reports in 2011 on breaches of Clause 327 of the Fire Safety Regulations of the Russian Federation, which prohibits "burning stubble, crop residues and building fires on fields." During the same period, the Oryol administration declared and put under review 40 violations of Article 11.13 of the Law of Oryol Oblast of 4 February 2003, № 304-OZ, "On accountability for administrative law violations," which banned "unsupervised burning of straw and dry grass vegetation."

In Rostov Oblast, only authorized precinct police officers and not other members of the police have the right to arrest those guilty of administrative violations of laws related to burning dry vegetation. In high fire hazard periods, the right to impose punitive measures is delegated to specially-authorized bodies. For instance, these agencies collected a total of 1.7 million rubles from levying fines during the high fire hazard period in 2011.

A completely different practice emerged in the Republic of Tatarstan. Officers of the Administration for Supervisory Activities of the Central Administration of the Ministry of Emergency Situations of Russia (УНД ГУ МЧС for Republic of Tatarstan) are responsible for arresting those guilty of burning agricultural plant-based waste. In 2011, the fines imposed by officers of the Administration, following Article 20.4 of the Code of Administrative Offenses of the Russian Federation, totaled 327,500 rubles.

As it has been earlier noted that most subjects of the Russian Federation have not adopted normative acts containing legal regulations on the issue at hand, it is of particular interest to turn to federal legislation that establishes the parties responsible for bringing charges against violators of fire safety rules.

In accordance with Section 5, Clause "c" of the Statute of the Federal State Fire Supervision, established by the Decree of the Russian government of 12 April 2012, № 290, "agencies for government fire supervision are responsible for dealing with law violations pertaining to fire safety." Further, Section 9, Clause "h" of the Statute reads, "government fire supervisors in cities (regions) of subjects of the Russian Federation have the right to bring charges against violators of fire safety rules, investigate these cases of administrative law violations and take measures for the prevention of such violations."

There is also Article 23.24 of the Code of Administrative Offenses of the Russian Federation, according to which the agencies for state fire supervision investigate cases stated in Article 20.4 (violations of fire safety rules). This Article 23.24 of the Code of Administrative Offenses also presents a list of the state agencies responsible for fire supervision.

Section V

Conclusions drawn from research results

We can draw the following conclusions from the results of this investigation work:

- 1) Regulations at a federal level are not sufficient for addressing the problem of burning agricultural waste (grass, stubble). Moreover, having to take into account both environmental protection norms and fire safety regulations makes it difficult to get a clear idea of the rules for burning dry agricultural plant-based waste,
- 2) The majority of the subjects of the Russian Federation do not have any legal norms to make up for the lack of federal legislation relevant to the issue at hand,
- 3) The great diversity in law enforcement practices makes it clear that there is no common governmental agency in Russia responsible for bringing charges against violators of rules for burning dry agricultural plant-based waste, and
- 4) Consequently, it is necessary to make changes in Russian legislation in relation to burning dry agricultural plant-based waste.

Section VI

Ways of optimizing Russian legislation related to the subject at hand

Despite the large number of articles devoted to defending burning agricultural waste (grass, stubble, etc.), such activities do more harm than good. Moreover, there have been significant developments in technology that allow the enrichment of the soil and recycling of agricultural waste without using fire for waste removal.

Thus, the author of this work suggests the following as ways of improving Russian legislation on the prohibition of burning dry agricultural waste:

- 1) Adopt a separate normative legal document establishing measures to counteract burning dry agricultural plant-based waste on the territory of the Russian Federation. In addition, this legal act should include:
 - a list of objects that fall under the description of “dry agricultural plant-based waste”,
 - norms directly prohibiting burning such waste on the country's entire territory,
 - methods and measures for counteracting the use of fire activities and means towards their implementation, and
 - authorized government agencies for supervising and bringing charges against law violators.
- 2) Make changes to the Code of Administrative Offenses of the Russian Federation that will provide for strict sanctions for violating the prohibition of burning dry agricultural plant-based waste.
- 3) When necessary, adopt new legal acts or amendments to current documents in order to contribute to the implementation of this new normative legal act in subjects of the Russian Federation--for example, norms introducing stricter administrative sanctions for law violators.

Translated by Paloma Jeretic