

ASH AND SLAG HANDLING

3.7. Analytics

3.7.3. Improvement of the legislation of the Russian Federation in the field of production and consumption waste handling*N.B. Nefedyev, S.G. Psyurnichenko*

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Waste management is a part of activity on environmental protection.

In the Russian Federation a basis of the legislation in the field of production and consumption waste handling make the Federal Law № 89-FZ from June 24, 1998 «About production and consumption wastes» and the Federal Law № 7-FZ from January, 10, 2002 «About environmental protection» together with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 1989 (further – the Basel Convention), ratified by the Federal Law № 49-FZ dated November 25, 1994.

In the Federal Law № 89-FZ from June 24, 1998 «About production and consumption wastes» the reference of wastes to the process of their origin is used: production or consumption. However, these processes do not cover all the range of activity resulting in waste production. But if the production process is in the frames of the common understanding, a sense of the consumption process leading to their formation is unobvious and, undoubtedly, needs to be described in detail. In connection with this in all the subordinate acts connected with realization of the present Federal Law, the concept «production and consumption wastes» only has the nominal meaning and is actually narrowed down to the concept "wastes".

The purposes of this Federal Law are preventing a harmful waste impact on the health and environment, and also involving of wastes into economic circulation.

However, as it is known, a large number of conditions defining safety of the human health and environment are not coinciding. Thus, questions concerning provision of sanitary-and-epidemiologic welfare of population are regulated by the corresponding legislation of the Russian Federation.

In the legislation of the Russian Federation two complementary sources of terms and definitions in the field of the waste management are used: the Federal Law №89-FL from June 24, 1998 and the Basel convention. However, some concepts in these normative legal acts are duplicated, and their wordings are not coinciding.

It concerns a key definition – "wastes". Thus, given term used in the Federal Law, is more acceptable whereas the definition "wastes", given in the Basel Convention, answers the purposes of this international legal document on securing the safety at transboundary movements of dangerous and other wastes and the control over it.

By this, it is necessary to mention that the material condition, called waste, is an economic category as the relation to it is defined by absence of economic, industrial and/or other expediency and technical possibility of use (as a ready product, a half-finished product or raw materials). This feature has a practical sense, for example, establishing the limits on waste disposal.

Under waste management a set of five operations with wastes, including the whole complex of possible actions, covering their full "life cycle", is meant. This group includes

the activity resulting in waste production, and also activity on waste control, use, neutralization, transportation and disposal.

The Federal Law «About production and consumption wastes» and subordinate acts, accepted with a view of its realization, set various requirements for securing the ecological safety at the waste handling.

On December 30, 2008 the Federal Law №309-FZ «About modification of the article 16 of the Federal Law «About environmental protection» and certain legislative acts of the Russian Federation» was adopted. It changed the Federal Laws in the field of environmental protection and management of natural resources.

We'll consider the changes in the field of production and consumption waste handling, introduced by the Law №309-FL from December 30, 2008 (further the Law).

New concepts «waste collecting», «waste transportation» and «waste accumulation», directly used at licensing the activity on collection, use, neutralization, transportation, and disposal of dangerous wastes. Their absence in the legislation of the Russian Federation led to that almost all the economic entities should obtain the license on this type of activity.

Waste collection is reception or receipt of wastes from physical and legal persons with a view of the further use, neutralization, transportation, and disposal.

Waste transportation is moving of wastes by means of carrier vehicles outside the limits of the ground area being in the property of the legal person or the individual businessman or given by him on other rights.

Waste accumulation is a temporary warehousing of wastes (for a term of no more than six months) in places (fields), equipped in accordance with the requirements of the legislation in the field of environmental protection and maintenance of sanitary-and-epidemiologic well-being of the population, with a view of their further use, neutralization, disposing, and transportation.

The concept «dangerous wastes» covering almost all the number of wastes is excluded and five classes of hazard are introduced. According to the criterias, established by federal authority, carrying out state regulation in the field of environmental protection, wastes are subdivided into 5 classes depending on a degree of their negative influence on environment:

- I class – extremely hazardous waste;
- II class – highly hazardous waste;
- III class – moderately hazardous waste;
- IV class – low-hazard waste;
- V class – virtually non-hazardous waste.

Issues concerning biological waste handling and wastes from prevention and treatment facilities regulated by the corresponding legislation of the Russian Federation are excluded from the sphere of legal regulation in the field of production and consumption wastes handling.

Wastes from the Ist to IVth classes of hazard should have a passport, and the order of certification and typical forms of the passports are defined by the Government of the Russian Federation.

Since January 1, 2010 disposal of wastes at the objects which have not been brought into the state register of objects of waste disposal is forbidden. This norm is not applied to the objects which are connected with disposal and neutralization of wastes, and which are put into operation or get a building license before the date when the Law is coming into force.

Licensing of the activity on hazardous waste handling was replaced by the law for licensing of the activity on collection, use, neutralization, transportation, and disposal of wastes of the Ist to IVth classes of hazard. Activity on accumulation of wastes of the Ist to Vth classes of hazard, and also activity on collection, use, neutralization, transportation, and disposal of wastes of the Vth class of hazard is not subject to licensing.

It is extremely important for the overwhelming majority of economic entities, which basic activity (registered by the foundation documents) is not connected with the waste handling, and their transportation and disposal is carried out on a contractual basis by the specialized enterprises having the license for this type of activity.

From the number of objects of the state ecological expertise materials on substantiation of licenses for realization of activity on collecting, use, neutralization, transportation, and disposal of wastes were simultaneously excluded.

Design documentation of objects connected with disposal and neutralization of wastes of the Ist to Vth classes of hazard is simultaneously included in the number of objects of the state ecological expertise of a federal level.

Nowadays subjects of the small and medium-sized business should not develop and represent to the federal or enforcement authorities of the subject of the Russian Federation, authorized for waste handling according to their competence, draft specifications on waste production and limits on their disposal. Instead of this the reporting about actual waste production and its removal by ecologically sound way (including by means of disposing) in a notifying order is introduced for them. It excludes a necessity of working out and agreement with the corresponding federal or enforcement authorities of the subject of the Russian Federation of the labor-

intensive document – the draft specifications on waste production and its disposing limits which working out requires considerable financial and time resources.

Together with this the Law strengthens an administrative responsibility of legal persons and individual businessmen for not meeting the ecological and sanitary-and-epidemiologic requirements at production and consumption waste handling. In the Code of the Russian Federation on administrative offences the top border of the administrative forfeiture was increased up to thirty thousand rubles concerning officials, fifty thousand rubles concerning non-incorporated entrepreneurs, two hundred fifty thousand rub concerning legal persons.

It is necessary to mention that in the Federal Law № 374-FZ dated December 27, 2009 «On Amendments to Article 45 of Part I and Chapter 25.3 of Part II of the Tax Code and Other Laws of the Russian Federation and the Repeal of the Law “On Fees for the Issuance of Licenses for Realization of Activity Connected with Production and Turnover of Ethyl Spirit, Alcoholic and Alcohol-Containing Products» the size of a State Tax for the following activity: delivery of permissions for transboundary moving (dangerous wastes, ozone-destroying substances and products containing them); import of poisonous substances in the territory of the Russian Federation; license granting; renewal of the document confirming presence of the license; delivery of the duplicate confirming presence of the license and prolongation of a period of validity of the license is increased.

The state duty for permission delivery was simultaneously introduced:

- for emission of harmful (polluting) substances into the atmospheric air – 2000 rubles;
- for harmful physical impact on atmospheric air – 2000 rubles;
- for discharge of polluting substances into environment – 2000 rubles;
- for issuing the document on validation of specifications on production and consumption waste formation and limits on their disposing – 1000 rubles;
- for renewal and issue of the duplicate document on validation of specifications on production and consumption waste formation and limits on their disposing – 200 rubles.