

RUSSIAN ENVIRONMENTAL LEGISLATION

HOW THE WAR HAS
CHANGED RUSSIA



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RUSSIAN ENVIRONMENTAL LEGISLATION

Assessment of Changes during 2022 - 2023

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Green Think Tank - is a community of experts dedicated to analyzing the current situation in Russia and designing sustainable reforms for the future.

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Notes on Authorship and Accessibility

Since the start of the full-scale invasion of Ukraine by the Russian army, many Russian environmental experts have been publishing under pseudonyms to hide their identities. For those working in Russia, this helps to reduce the risk of reprisals by Russian security services and harassment by government-controlled media and public associations while allowing them to continue participating in important discussions and sharing expert opinions.

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In this analytical review, the authors refer to government data sources. Many of these sources are not accessible to users with Internet providers outside Russia. To access these sources, you may need to use a VPN service that connects through Russia. Please ensure that the use of VPNs complies with the legal requirements in your country.

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INTRODUCTION

Legislation is one of the most important elements of the environmental protection system.

In assessing its changes, the quantity and content of the amendments are important. However, the content can be evaluated subjectively due to, for example, an individual's political views or life priorities (such as their attitude towards supporting businesses). Therefore, for a substantive assessment of each change in environmental protection laws during the period of 2022-2023, only potential ecological consequences are used.

It is assumed that during the decades of the current political leadership, most of the essential reforms and necessary measures should have been implemented or addressed. Moreover, it is assumed that these changes were carried out with minimal mistakes or shortcomings, which need to be further corrected.

The main part of this report examines the number of amendments, the speed of adoption, and the legislation content. Conclusions and interpretations of the conducted research are presented at the end.

ASSESSMENT OF CHANGES IN LEGISLATION

APPROACH TO ASSESSING CHANGES

Changes are evaluated in five environmental protection laws, which are considered fundamental (laws discussed in other sections are not included):

- Forest Code
- On Industrial and Consumption Waste
- On Air Protection
- On Environmental Protection
- On Environmental Impact Assessment

The law 'On the Protection of Lake Baikal' is not taken into account and is not included in the general list, as an amendment of a clarifying nature was made to it in 2022. This amendment has neither positive or negative potential environmental impact.

The following principles are used in the amendments evaluating approach:

■ Amendment with a Positive Character:

Potentially leads to positive changes — improving the state of the environment, more responsible use of its elements, simplified access to environmentally significant information, or public participation in decision-making on environmental issues.

■ Amendment with Negative Character:

Potentially leads to negative changes or may limit access to environmentally significant information and decision-making on environmental issues.

Further, four clarifications should be made:

- 1** Only a limited number of amendments directly regulate the impact on the environment. Most of them have an indirect action. For example, the packaging recycling requirement does not yet imply actual recycling and reduced impact. Therefore, the potential effect is assessed taking into account the current state of the elements on which the outcome will depend. Also, when assessing the use of low-hazard waste, the widespread underestimation of waste danger should be taken into account.
- 2** If in different parts of the report an amendment had both positive and negative characteristics, it is counted twice in quantitative assessment.
- 3** Since even within one law, amendments regulate different aspects for different objects, the amendments content cannot be compared. It will not be possible to reflect or compare the degrees of negative impact — the amendment text alone is insufficient to draw conclusions about the application possibilities. It is also unclear how exactly they will be used considering violations of legislation.
- 4** The delegation of decision-making functions on environmental protection issues to executive authorities is highlighted separately. It does not have an effect in itself. The effect will be the result of the relevant authority decision. However, it is fair to note that in the field of environmental protection, such delegation usually leads to instability and negative consequences.

The texts of the amendments are taken from the online version of the ConsultantPlus database. The lists of deputies of the State Duma who proposed the amendments and their affiliation with factions are from the State Duma's website .

QUANTITATIVE ASSESSMENTS OF THE SPEED OF AMENDMENTS

The Figure 1 below shows the number of amendments adopted per each environmental protection law — here and further, we use the term "specific number of amendments" - number of amendments made per one environmental law. The amendments considered are those adopted annually over the past seven years — five pre-war years and the last two years. The calculation is made for the five main environmental protection laws .

In Russia, the number of laws related to environmental protection adopted annually is constantly increasing. However, as seen from the figure, the legislative process in recent years has been unstable. The number of changes adopted in neighbouring years may differ by a factor of two. A particularly noticeable increase is observed in 2023, where the figure reached its maximum.

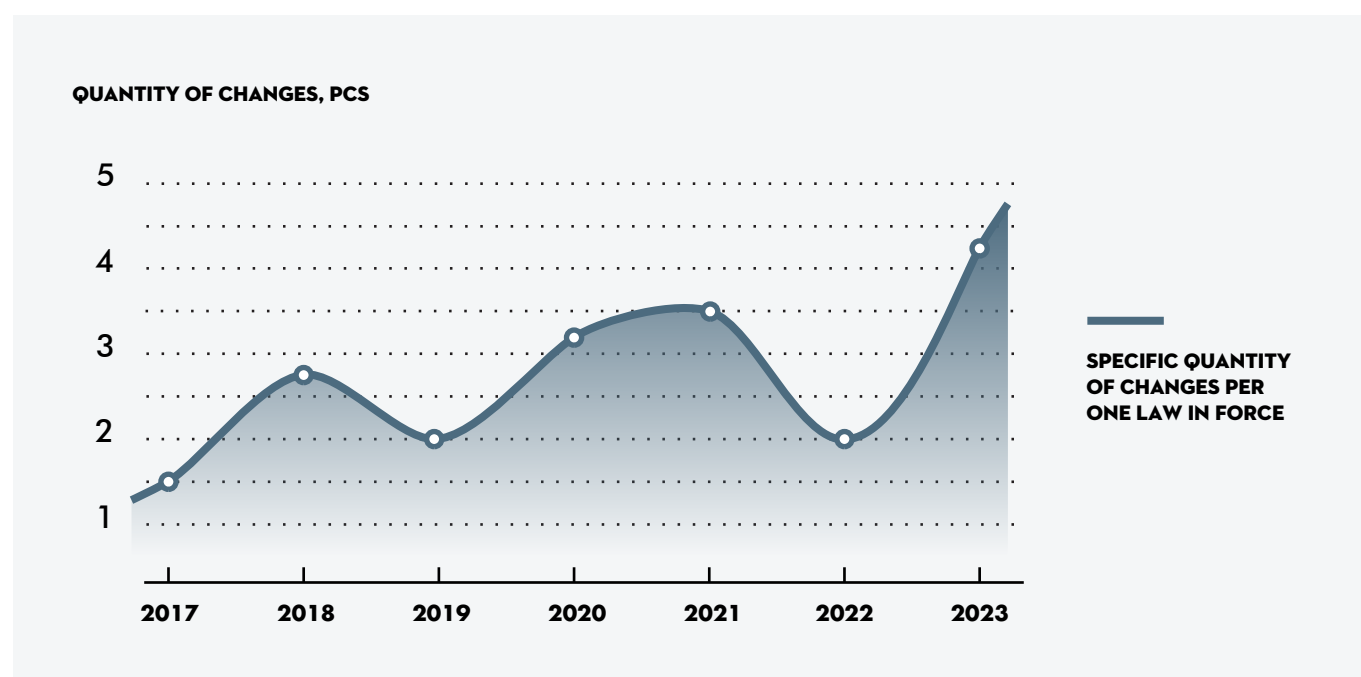


Fig. 1. Specific Annual Number of Amendments Made to Federal Environmental Protection Laws

The comparison with other countries is also discouraging for Russia. It is in Russia that the highest specific number of amendments to environmental legislation has been made. Even the second country on the list in terms of the scale of amendments — Belarus — has a rate of changes that is twice lower.

QUANTITATIVE ASSESSMENTS OF SUBSTANTIVE CHANGES

Over the last two years, 35 amendments have been adopted — the decision of the Constitutional Court is not counted as it was subsequently incorporated into the law.

More detailed quantitative data on the amendments is provided in Table 1.

LOW	2022				2023			
	TOTAL	DELEGATION OF FUNCTIONS	CLEARLY NEGATIVE	CLEARLY POSITIVE	TOTAL	DELEGATION OF FUNCTIONS	CLEARLY NEGATIVE	CLEARLY POSITIVE
ON WASTE OF PRODUCTION AND CONSUMPTION	5	4	3	1	3	2	0	1
ON ENVIRONMENTAL PROTECTION	3	1	3	1	8	4	2	3
ON ECOLOGICAL EXPERTISE	3	1	0	1	5	3	3	1
ON AIR PROTECTION	0	0	0	0	1	1	0	0
FOREST CODE	1	1	0	0	5	3	2	0
TOTAL	12	7	6	3	21	11	6	5
TOTAL, %		58%	50%	25%		57%	30%	22%

Table 1. Quantitative Assessments of Substantive Changes.

In 2022, 2.5 times fewer amendments were adopted than in 2023 — and significantly fewer than in 2021. Environmental protection and natural resource issues were likely not a priority in the early months of the war. However, in 2023, legislators returned to these issues — the number of amendments per law was the highest in the last decade.

Particular attention should be paid to the decision-making delegation towards the Russian Government or other executive authorities. Decisions were made in more than 57% of the adopted amendments.

The Russian Government priorities are not the preservation of nature, but the support of economic activities, including those related to the extraction of natural resources.

Therefore, such amendments cannot be classified as negative, but should be considered potentially dangerous — negative consequences from many are quite real.

THE NEGATIVE CHANGES

CONTENT OF NEGATIVE CHANGES

Table 2 provides brief descriptions of the negative changes made and the author's rating of these changes from 1 to 3, where 1 is a change of limited impact and 3 is a change that creates a systemic problem or a change of major magnitude.

Table 2. Brief Descriptions of the Approved Negative Changes.

LOW	YEAR	LOW №	CONTENT OF NEGATIVE CHANGES	TERM, YEARS	AUTHOR'S ASSESSMENT
ON ECOLOGICAL EXPERTISE	2023	305	The maximum period for conducting state environmental expertise within the framework of a "single window" is reduced from 60 to 42 days		2
		673	The maximum term for state environmental expertise is reduced to 42 days, and for aquaculture activities — to 20. It is allowed to submit documents for expertise before the completion of public discussions (and to present the results of hearings during the expertise). Discussions can be held remotely, which provides a wide scope for falsifications. In many cases expertise is no longer required — for example, reconstruction under certain conditions confirmed by the project documentation of the business organizer		3
		681	Introduces a requirement for the certification of experts in state and public expertise, prohibits participation in public expertise of foreign agents or individuals holding citizenship of another state		3

Table 2 (Continued). Brief Descriptions of the Approved Negative Changes.

LOW	YEAR	LOW №	CONTENT OF NEGATIVE CHANGES	TERM, YEARS	AUTHOR'S ASSESSMENT
ON WASTE OF PRODUCTION AND CONSUMPTION	2022	268	Classifies incineration as the disposal of secondary resources, supports waste incineration ¹		2
		343	Allows the use of IV and V class waste for the liquidation of mining operations, including ash and slag		3
		519	Allows solid municipal waste dumps without required documentation to operate for another three years (until January 1, 2026)	3	1
FOREST CODE	2023	343	Expands opportunities to conduct clear-cutting in protective forests		3
		486	Economic activities (in the field of tourism, physical culture, and sports) are allowed on forest lands, "profile" facilities can be built on them		3
ON ENVIRONMENTAL PROTECTION	2022	71	Postpones the obligation to install automatic control systems at facilities of category I for two years	2	1
		268	See Law 268 (in the section On Waste of Production and Consumption). Additionally, the payment for waste production may be postponed for up to three years, during which time the hazard class may decrease and thus decrease the payment		2
		343	See Law 343 (in the section On Waste of Production and Consumption)		3
	2023	450	Access of citizens to information from the federal state information system on the state of the environment will be regulated by the Russian Government		1
		451	The requirement for a ban on the gas turbines commissioning of Russian manufacture with a capacity of less than 120 MW at facilities subject to BAT ² is postponed for one year and for two years regarding their operation if they do not meet BAT requirements	0.5	1

1. This Law does not give permission to burn waste - it was given earlier. But the Law establishes that burning is a process of recycling secondary raw materials, i.e. it is subject to benefits and is not subject to restrictions.

2. BAT — Best Available Technologies

SUPPORT FOR WASTE INCINERATION

For a number of amendments, it is important to show the reasons for their classification as negative.

Support for Waste Incineration — Negative Consequences. The negative nature lies not so much in the amendment itself but in the permitted waste incineration as a method of waste management.

Waste incineration leads to the destruction of secondary raw materials that could be reused, and to additional greenhouse gas emissions. At the same time, the reduction in waste mass is limited — up to 10% of the original remains. The hazard class simultaneously increases from V to III, meaning that practically non-hazardous waste becomes toxic ash, which requires specially equipped storage and disposal sites.

Moreover, the construction of waste incineration plants causes constant protests from nearby. In Russia, waste incineration often results in serious environmental pollution due to inadequate regulations and archaic technologies. Questions even arise about the design quality and plants operation, especially after the sanctions imposition.

“Waste incineration destroys reusable materials and produces extra greenhouse gas emissions. Local communities also protest against the construction of waste incinerators.”

USE OF CERTAIN WASTE CLASSES IN MINING OPERATIONS

Another negative amendment requiring clarification is about the possibility of using certain IV and V class waste for the liquidation of mining operations.

Using inert materials — for example, certain overburden rocks — to fill voids created by the extraction of natural resources is a reasonable idea. However, in Russian realities, there is a widespread practice of underestimating the waste toxicity class. For instance, the author has encountered situations where II class waste — hazardous, with a high degree of toxicity — was presented as IV class waste, i.e., low-hazard. In such a situation, the amendment application will inevitably lead to significant environmental pollution.

PUBLIC ACCESS TO INFORMATION ON THE STATE OF THE ENVIRONMENT

The right to reliable information about the state of the environment is guaranteed by Article 42 of the Russian Constitution.

The amendment transferring the authority to regulate access to information from the federal state information system on the state of the environment to the Russian Government may lead to restrictions on access — as the legislation does not establish the public availability of information from this system.

However, it is worth noting that the possibility of restrictions was already established in the Environmental Protection Law prior to the adoption of this amendment.

CHANGES REGARDING THE CONDUCT OF ENVIRONMENTAL EXPERTISE

The amendment allows the submission of documents for state environmental expertise before the completion of public discussions. This renders the mechanism of public discussions meaningless in such cases. Their results cannot be taken into account in the project already submitted for expertise.

The reduction of the timeframes for conducting state environmental expertise complicates, and in some areas nearly eliminates, the possibility of involving qualified professional experts in the state expertise process. Many of them have jobs or ongoing commitments, making it difficult to conduct thorough reviews and objective analyses of documents within tight deadlines — especially considering the low fees for participation .

Regarding the introduction of expert certification, many professionals will be unprepared to "validate" their qualifications before significantly less qualified staff from environmental agencies. This will reduce the number of knowledgeable experts and lead to environmental and corruption risks. Furthermore, the conduct of public environmental expertise itself was made more complicated. A significant number of qualified participants will simply refuse to undergo certification.

Many serious experts have been designated as foreign agents, and some hold other countries' citizenship . These individuals are now barred from participating in public environmental expertise.

AUTHORS AND INITIATORS OF THE CHANGES

The amendments with negative character were introduced in 11 laws — of which two made changes to two of the laws under consideration. Out of the 11 laws, eight were introduced by the Government and three by groups of deputies.

The average review period for negative laws is about nine months and does not differ for amendments proposed by deputies and the Government.

Seventeen deputies participated in the introduction of three bills, of which 13 belong to the "United Russia" faction, and four are from other factions — one each from the Communist Party, Liberal Democratic Party, "New People," and "Fair Russia." This provides grounds to assert that negative bills were introduced by groups that are fully associated with the ruling party, "United Russia."

CONTENT OF POSITIVE CHANGES

Another important aspect characterizing environmental legislation is the positive amendments. They pertain to several groups, which are listed below.

The number of positive amendments is fewer than the negative ones — but what is more important is that the affected areas and scope are more limited.

None of the positive amendments, unlike the negative ones, impose significant additional economic or other burdens on businesses that could lead to environmental preservation. Additionally, these amendments do not provide any additional rights to residents.

The largest number of changes has been made regarding waste and secondary raw materials. For instance, the burial of secondary raw materials is prohibited, and their effective use is encouraged — but we should remember that incineration is included in the measures for effective disposal. We believe that to effectively implement the amendments, the government should establish types of products for which producers are required to use secondary raw materials, as well as the proportion of their use and the proportion of recyclable packaging. Some of the responsibility (often - overwhelming) for cleaning up accumulated waste has been lifted from municipalities.

Furthermore, there has been some expansion of the list of objects of environmental expertise objects — but including objects of previously prohibited environmentally harmful activities, which can be seen as a kind of attempt at compensation.

Finally, monitoring of permafrost has been made mandatory — which has already been carried out by Roshydromet in practice for many years.

“Positive amendments, unlike negative ones, neither burden businesses economically nor grant new rights to residents.”

CONCLUSIONS

Russia has a unique approach to environmental legislation. One is witnessing constant, rapid, and unmotivated changes to environmental laws — and in 2023, both the absolute and relative number of amendments to the five main laws exceeded that in previous years.

On one hand, this format of lawmaking teaches people to justifiably distrust both the laws and the legislative body. On the other hand, it clearly provokes a lack of compliance with the laws. This leads to negative environmental consequences — and unfortunately, this trend has intensified during the war. The number of negative amendments is roughly the same in 2022 and 2023. The number of positive amendments also varies only slightly.

37% of amendments to environmental laws adopted during the wartime period may lead to the destruction of nature, as they remove various environmental protection restrictions. More than 50% of the amendments delegate decision-making to executive authorities — which is potentially very dangerous.

Overall, all negative laws were introduced either by the Government or by an absolute majority of deputies who are members of the ruling party "United Russia."

Among the most significant negative changes, two groups of the most radical amendments stand out: Reducing the economic burden on businesses at the expense of the environment and reducing the role of environmental expertise — which also facilitates business activities that were previously restricted by environmental requirements.

“Russia's environmental legislation is unique: laws change rapidly and without reason. In 2023, the absolute and relative number of changes to the five main laws was the highest on record.”

TWO GROUPS OF RADICAL CHANGES

Reduction of Economic Burden on Businesses at the Expense of the Environment:

- Several decisions, if implemented, will relieve some types of businesses of part of their economic burden — while harming the environment.
- In the mining industry, this includes allowing use of waste of classes IV and V. In the waste management industry, there is a three-year permit for dumps that do not meet environmental requirements, and the consideration of incineration as an effective method for recycling secondary resources.
- In any industry that generates waste, there is the possibility of deferring waste payments for three years.

Reduction the role of environmental expertise

Significant changes have been made to important elements of conducting state environmental expertise. These changes make it an even less effective mechanism:

- The consideration of the public discussions results has effectively been cancelled — because the project can be submitted for environmental expertise before the discussion is completed. In many reconstruction cases , conducting expertise is no longer required at all.
- A series of changes reduces the number of qualified professionals who can and are willing to act as experts. This includes the newly introduced requirement for the certification of experts in state and public expertise, as well as a ban on the participation in the expertise of foreign agents or individuals with citizenship from other countries.
- The timeframe for conducting expertise has been reduced by one-third.

OTHER NEGATIVE CHANGES

In the field of forestry, clear-cutting was permitted in protective forests. Additionally, economic activities related to tourism become allowed in forested areas. Even capital construction of facilities — including hotels — were permitted on these lands. It is possible that these changes will be used to seize forest lands for residential construction.

POSITIVE CHANGES

Positive changes are incomparably less extensive than negative ones. They primarily address issues related to secondary raw materials and "unravel" specific problems associated with the inability of municipalities to fulfil some of their environmental protection functions within the current tax system.

Another point is that these amendments legislatively establish mandatory monitoring of permafrost, which has already been carried out by Roshydromet in practice for many years.