

# Waste reform in Russia: administrative powers at federal, regional and local levels

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The “waste reform” process in Russia has reallocated powers for the management of municipal solid waste (“MSW”), resulting in the main powers for MSW management going to regional authorities.

Prior to the legislative amendments made as a result of “waste reform”, federal authorities were vested with powers that included, among others, setting requirements for waste disposal and landfill facilities and approving requirements for the composition and content of territorial schemes.

After the relevant amendments took effect, the federal authorities, instead of exercising the above powers, were authorised to set uniform requirements for MSW treatment, recycling, neutralisation and disposal facilities; to establish procedures for the development and approval of territorial waste management schemes and perform additional duties, such as approving a federal waste management scheme.

At the same time, the main powers for waste management have been vested in the constituent entities of the Russian Federation (i.e. the regions). These powers include establishing waste generation standards, administering MSW management; developing and approving territorial waste management schemes, etc. In addition, some competencies have been transferred from the municipal to the regional level, such as the administration of waste management.

As a result, “waste reform” is being concurrently implemented at the three levels of power: federal, regional and municipal. Competent authorities at each level are responsible for the reform’s implementation. In addition, a two-tier structure of operators has been introduced: the federal operator and regional operators. The federal operator manages I and II hazard class wastes while regional operators are in charge of III and IV hazard class wastes.

By 1 January 2019, all the Russian regions should have switched to the new system of MSW management under which regional operators are responsible for MSW collection, transportation, treatment, recycling, neutralisation and disposal on the basis of a regional programme and territorial waste management scheme.

However, as at 1 January 2020, only 78 out of 85 constituent entities of the Russian Federation [had switched\\*](#) to the new system, and three constituent entities, the federal status cities of Moscow, Saint Petersburg and Sevastopol, have been given until 1 January 2022 to do so.

## Federal level

At the federal level, “waste reform” is implemented by federal authorities, and in particular the Russian government and the Russian Ministry of Natural Resources and Environment.

The amendments have conferred the following powers on federal authorities:

- licensing collection, transportation, treatment, recycling, neutralisation and disposal of I to IV hazard class wastes;
- approving the procedure for developing and approving territorial waste management schemes;
- approving the procedure for developing and approving the federal MSW management scheme;
- approving the procedure for developing, approving and adjusting the investment and production programmes related to MSW management;
- establishing the procedure for considering disputes arising between regional authorities, federal authorities, the Russian environmental operator and the federal operator in relation to the development and adjustment of territorial waste management schemes;
- establishing the procedure for setting up, operating and upgrading the state information system for MSW accounting; and
- establishing the procedure under which the constituent entities of the Russian Federation are given for considering the recommendations of the Russian environmental operators when approving or adjusting a regional waste management programme.

I and II hazard class wastes have the most harmful impact on the environment and include mercury thermometers, arsenic salt waste, batteries, alkalis, acids and galvanic elements. In connection with this high degree of hazard, the collection, transport, treatment, recycling, neutralising and disposal of this waste have been transferred to the federal level. As a result, the above functions have been assigned to the federal operator for I and II hazard class waste management (the “**Federal Operator**”).

In addition, the Federal Operator maintains a state information system for the accounting and monitoring of I and II hazard class waste management and engages operators for this waste management under service contracts in accordance with the federal scheme of I and II hazard class waste management.

The Russian government appoints the Federal Operator at the suggestion of the State Atomic Energy Corporation “Rosatom”. In November 2019, a federal state unitary enterprise, “Radioactive Waste Management Enterprise “RosRAO”, was appointed as the Federal Operator.

Also, in 2019 a public company, “The Russian Environmental Operator”, was established at the federal level to coordinate the activities of regional operators and ensure the implementation of MSW management measures. In particular, the Russian Environmental Operator is authorised to develop a federal waste management scheme and to review, at an expert level, territorial waste management schemes and, importantly, to attract private investors.

The Russian Environmental Operator performs the following main functions:

- participates in the activities of federal executive authorities, executive authorities of the constituent entities of the Russian Federation and local authorities to implement waste management legislation;
- enters into agreements within its competence with federal executive authorities, executive authorities of the constituent entities of the Russian Federation and local authorities;
- analyses the implementation of territorial waste management schemes in the constituent entities of the Russian Federation;
- conducts expert examinations of territorial waste management schemes and prepares recommendations to adjust these schemes;
- drafts federal and regional programmes of state support for investment projects;
- organises and provides financing for investment projects;
- provides guarantees or suretyships to private investors for the implementation of investment projects when approved by the company’s supervisory board;
- issues bonds to finance investment projects; and
- acquires, holds and disposes of shares in MSW management companies.

The Russian Environmental Operator’s activities have resulted in the [expert examination](#)\* of territorial schemes of all regions of the Russian Federation, and the [formation](#)\* of “REO Radar”, a national system for monitoring each regional operator’s activities, which allows for feedback on the activities of regional operators to be left on a website or via a hotline.

Federal authorities now serve as an intermediary between regional authorities on the one hand, and the Federal Operator and the Russian Environmental Operator on the other hand. Federal authorities also control and coordinate the actions of regional executive authorities through, first of all, the Russian Environmental Operator.

To attract investors, the Russian Environmental Operator plans to develop packaged offers for investments into the waste management industry and to issue “green bonds”. In other words, investors will have a wide choice of investment types.

As for the Federal Operator, there is also an opportunity for investment since the Federal Operator is authorised to engage I and hazard class II waste management operators under service contracts.

## **Regional and local levels**

### ***Regional level***

As a result of the reform, the constituent entities of the Russian Federation acting through their administrations have been vested with a significant number of waste management powers, which in particular include:

- establishing waste generation standards and waste disposal limits;
- approving cap rates for MSW management;
- approving investment programmes related to MSW;
- receiving waste management reports from legal entities and individual entrepreneurs operating at III category facilities;
- approving the procedure for MSW accumulation;
- regulating regional operators’ activities; and

- developing and approving a territorial waste management scheme.

Moreover, the administration of MSW management (including collection, removal and recycling) has also been transferred from the municipal to the regional level.

As a result, most waste management powers are now vested with regional authorities.

At the level of the constituent entities of the Russian Federation, the functions of MSW collection, transportation, treatment, recycling, neutralisation and disposal have been assigned to regional operators. The status of a regional operator is assigned to a legal entity selected through a tender arranged by the administration of a constituent entity of the Russian Federation.

Based on tender results, the executive authorities of the Russian regions enter into an agreement with the winning bidder, with the content of and procedure for entry into this agreement regulated by regional laws.

A regional operator's area of activities is determined in the territorial waste management scheme. The area of activities encompasses the entire territory of the constituent entity of the Russian Federation or a part of this territory, where the regional operator carries out its activities based on the agreement mentioned above.

The following criteria must be met to become a regional operator:

- being state registered in the Russian Federation;
- holding a valid licence for I to IV hazard class waste management;
- undergoing no liquidation proceedings, having against it no commercial court decision recognising it as insolvent or bankrupt and commencing bankruptcy proceedings;
- having no activities suspended as an administrative punishment under Russian law;
- having no outstanding liabilities for taxes, duties, late payment penalties, fines for violation of Russian tax laws or any other mandatory payments to the budgets of the Russian Federation for the past calendar year, which exceed 25% of the book value of the company's assets according to its financial statements for the most recent reporting period; and
- having a CEO, collective executive body members and chief accountant free of convictions (or expunged convictions) for any economic crimes.

To implement the provisions of "waste reform", certain obligations have been imposed on the regional operators, such as:

- accepting MSW in such volumes and in such places as set out in their MSW management agreement;
- ensuring transportation, treatment, neutralisation and disposal of accepted MSW in accordance with Russian law;
- providing consumers with information on MSW management;
- considering consumer complaints and requests; and
- taking necessary measures for the timely replacement of damaged containers.

The above obligations are provided for in a model MSW management agreement to be entered into by each regional operator with MSW owners.

Tariff-based payments for household and corporate waste disposal are the main source of financing for regional operators. However, Russian law provides for other sources of financing, such as regional and federal subsidies and the possibility to attract investment.

At the regional level, there are wide opportunities for investors to implement projects in the field of construction (e.g. building multipurpose waste sorting plants or setting up waste landfills).

Most Russian regions have already started to implement waste management reform. For example, although Moscow's transition to the new waste management system was postponed until 2022, Moscow [amended\\*](#) legislation in July 2020 to comply with the [Law on Production and Consumption Waste\\*](#).

In addition to introducing administrative liability for failure to comply with separate waste collection and accumulation requirements, amendments were made in part relating to the control authorities exercise over compliance with separate waste accumulation requirements. In addition to the Moscow City Department of Natural Resources and Environment, such powers have been [vested\\*](#) in Moscow's associations of administrative and technical inspectorates.

In accordance with the announced postponement, the selection of a regional operator in Moscow was deferred until 2022. The reform suggests that, starting from 2022, there will [be\\*](#) a uniform regional MSW operator responsible for coordinating all waste management processes.

Unlike Moscow, the Moscow Region [held\\*](#) a tender and selected seven regional operators, which began operations

in the region on 1 January 2019, each being responsible for its territorial cluster.

However, not all Russian regions have succeeded in implementing reform. This is often because of unbalanced tariffs and standards for MSW accumulation, and low collectability of payments, which could eventually lead to the bankruptcy of regional waste operators. For example, in five Russian regions (the Vologda and Chelyabinsk Regions, as well as Dagestan, Bashkiria and Chuvashia), regional operators are at risk of suspending operations due to financial difficulties, but [will be able to avoid bankruptcy](#)\* due to state subsidies allocated from both regional and federal budgets.

Four far eastern regions (the Jewish Autonomous Region, Transbaikalia, Kamchatka and Khabarovsk Krai) have also faced difficulties. The [problems](#)\* there are mainly due to the lack of sufficient official landfills for waste disposal and the lack of a necessary waste recycling infrastructure.

Despite the successful start of “waste reform” at the federal level and in certain Russian regions, other regions seem to be experiencing serious difficulties in implementing this reform. These regions appear unready to fulfil the main waste management powers they have been vested with.

### Local level

The competence of local authorities in the field of waste management has been significantly reduced. In particular, the following previously conferred powers have been removed from the scope of their powers:

- arranging disposal and recycling of household and industrial waste;
- approving territorial planning documents (including territory cleaning schemes) for the relevant constituent entity of the Russian Federation;
- approving surcharges on tariffs charged by utility companies to ensure sources for implementing investment programmes; and
- approving investment programmes of utility companies.

Local authorities of urban settlements, urban districts and municipal districts have only been authorised to do the following: set up and maintain MSW collection or accumulation sites, determine location layouts for such places and maintain a register of MSW accumulation sites, and organise environmental education and the formation of an environmental culture related to MSW management.

The responsibility for maintaining the proper conditions of MSW accumulation sites is generally vested in the managing organisation of a residential building, in whose adjacent territory the site is located, subject to the land plot having been registered. If this is not the case, the responsibility for the MSW accumulation site is given to local authorities. Regional operators are, in turn, responsible for MSW collection, transportation, treatment, recycling, neutralisation and disposal.

### Conclusion

In the course of the implementation of “waste reform”, primary waste management powers have been vested in the constituent entities of the Russian Federation, which means that the regions will have more investment opportunities than they had in the past.

That being said, federal authorities still play a role. For example, the responsibilities of the Russian Environmental Operator, which operates at the federal level, also include the implementation of investment projects.

As a result, investors who are interested in waste projects in Russia should work with authorities at both the regional and federal levels.

For more information on opportunities in waste management in Russia, please contact CMS Russia experts [Dr. Thomas Heidemann](#), [Dmitry Bogdanov](#) or your regular contact at CMS Russia.

\* In Russian

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