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## Protected Zones and Minimum Distances to Main Oil Pipelines (Petroleum Product Pipelines): The Concept, Legal Regime and Meaning for Secure Operation of Main Pipeline Transport Facilities

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### Аннотация

A significant risk faced by oil pipeline companies in operation of main pipeline transport facilities is violation by third parties of the regime of protected zones and minimum distances to oil pipelines and petroleum product pipelines (collectively referred to as “oil pipelines”). No regulations establishing the legal regime of protected zones and minimum distance zones have been adopted yet. Absence of any regulations triggers law enforcement problems including origination of court disputes. This paper studies the main provisions on protected zones and minimum distances within the framework of their impact on the security of operation of main oil pipelines, life and health of people, analyzes concepts and regimes of the protected zone and minimum distances from the standpoint of the goal of their introduction, brings forward recommendations and proposals for minimization of legal risks.

**Ключевые слова:** energy law, legal regime of a main pipeline, restricted use zones, protected zone of a main pipeline

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## **I. Introduction**

One of the main tasks of a company operating a hazardous production facility is assurance of security of such facility, prevention of accidents and incidents at hazardous production facilities.

Based on Article 17.1 of Federal Law No. 116-FZ of July 21, 1997 On Industrial Safety of Hazardous Production Facilities (the “Industrial Safety Law”), a company operating hazardous production facilities is liable for causing damage to life or health of citizens as a result of an accident or incident at a hazardous production facility.

Since oil pipelines are referred to hazardous production facilities, this provision is also applicable to oil pipeline companies [1].

An important factor of assurance of security of oil pipelines is observance of the protected zone regime, and there are also introduced minimum distances to main oil pipelines in order to protect the surrounding buildings, life and health of people.

In 2018, the Land Code of the Russian Federation (the “LC RF”) was supplemented with Chapter 19 Restricted Use Zones that established the goals, types and legal framework of restricted use zones (“RUZs”).

However, the new chapter of the LC RF has no definition of RUZs [2].

RUZs are defined in Clause 4 of Art. 1 of the Urban Development Code of the Russian Federation: RUZs are protected zones, sanitary protection zones, zones of preservation of cultural heritage sites (historical and cultural monuments) of the peoples of the Russian Federation (“cultural heritage sites”), protected zones of cultural heritage sites, water conservation zones, flood zones, groundwater flooding zones, zones of sanitary protection of sources of drinking and municipal water supply, security zones, aerodrome adjacent territory, other zones established in accordance with the laws of the Russian Federation.

The legal definition fails to unravel the concept through its attributes, it just lists the existing RUZ types.

Publications suggest a couple of RUZ definition options:

(1) RUZs are zones established in order to ensure security of the population against the impact of industrial, energy, radiation hazardous and nuclear hazardous facilities, nuclear material storage facilities, etc. and protection of such facilities against any man-caused impact [3].

(2) A RUZ is a specific territory, within the established boundaries of which there is established a special (specific) legal regime for specific purposes that primarily lies in the establishment of restrictions on the use of land plots or land plot parts [4].

<sup>13</sup> It appears that the RUZ concept can be defined as follows based on its attributes contained in chapter 19 of the LC RF.

<sup>14</sup> RUZs are territories (aquatic areas) with clear boundaries established according to the procedure determined by the applicable laws for the purposes of protection of life and health of citizens, ensuring safety and secure operation of facilities with special characteristics, environmental protection, ensuring defense of the country and security of the state, within the boundaries of which there exist restrictions on the use of land plots without withdrawal of such plots from their owners except for the cases established by the law.

<sup>15</sup> Until lately, there has been no uniform terminology in the legal acts, the terms “restricted use territory”, “special territory” have been applied to different zones or a generic term has not been used at all [5]. Meanwhile, more than fifty types of various zones could be singled out in the Russian law [6]. The performed systematization of provisions on RUZs in a separate LC RF chapter is inter alia aimed at elimination of this problem.

<sup>16</sup> Article 105 of the Law introduces two independent RUZ types:

- protected zone of pipelines (gas pipelines, oil pipelines and petroleum product pipelines, ammonia pipelines);
- zone of minimum distances to main or industrial pipelines (gas pipelines, oil pipelines and petroleum product pipelines, ammonia pipelines).

<sup>17</sup> There is an opinion expressed in publications that other protected zones may be designed in respect of pipeline transport facilities in addition to the listed RUZs [7]. This idea is hard to agree with because the RUZ list established by Art. 105 of the LC RF is exhaustive [8].

<sup>18</sup> The legal regime of each RUZ type should be governed in detail by regulations approved by the Government of the Russian Federation, in particular, there should be indicated an exhaustive list of facilities prohibited for construction and activity types prohibited in the respective zone [9].

<sup>19</sup> As of the date of preparation of this article, the Government of the Russian Federation has not adopted any regulations on the protected zone or the minimum distance zone.

<sup>20</sup> In accordance with the provisions of Federal Law No. 342-FZ of August 3, 2018 On Amendment of the Urban Development Code of the Russian Federation and Some Legal Acts of the Russian Federation (“Law No. 342-FZ”), the earlier approved laws on the respective RUZs remain in effect until adoption of the regulations. The transition period has been initially established until January 1, 2022, based on Part 14 of Art. 26 of Law No. 342-FZ, but then it has been extended to January 1, 2025 [10].

## <sup>21</sup> **II. The concept and regime of the protected zone of main oil pipelines**

<sup>22</sup> Section 4 of the Main Pipeline Protection Rules (approved by the Ministry of Fuel and Energy of the Russian Federation on April 29, 1992, Regulation of the State Committee for Supervision of Industrial and Mining Practices No. 9 of April 22, 1992)

(the “Protection Rules”) is dedicated to protected zones, establishes their regime but contains no definition.

<sup>23</sup> The following definition can be found in Clause 3.31 of State Standard 34182-2017 Main Pipeline Transport of Oil and Petroleum Products. Operation and Maintenance. The Main Provisions:

<sup>24</sup> the protected zone of a main oil pipeline [petroleum product pipeline] is a restricted use territory or aquatic area established along a main oil pipeline [petroleum product pipeline], designed to ensure safety of the main oil pipeline [petroleum product pipeline].

<sup>25</sup> The following definition is contained in Clause 5 of the Technical Regulation of the EAEU On Requirements for Main Pipelines for Transportation of Liquid and Gaseous Hydrocarbons (approved by Resolution of the Council of the Eurasian Economic Commission No. 121 of December 23, 2020) (“TR EAEU 49/2020”) (obligatory in Russia based on Art. 52 of the Treaty on the Eurasian Economic Union of May 29, 2014):

<sup>26</sup> the protected zone is a restricted use territory or aquatic area adjacent to main pipeline facilities, designed to ensure safety of main pipeline facilities and create the required conditions for their operation, within the limits of which types of activities incompatible with the zone establishment purposes are restricted or prohibited.

<sup>27</sup> The given definitions differ in content but each of them implies that the function of the protected zone is assurance of safety of main pipeline transport facilities. The same protected zone establishment purpose is indicated in Clause 4.1 of the Protection Rules.

<sup>28</sup> The earlier established protected zones remain in effect until termination of the transition period, adoption of the regulation on protected zones by the Government of the Russian Federation (Clause 8 of Art. 26 of Law No. 342-FZ, preamble and Clause 1 of the Digest of Case Law approved by the Presidium of the Supreme Court of the Russian Federation on June 23, 2021).

<sup>29</sup> The earlier established protected zones will not be changed following the adoption of the regulation on protected zones by the Government of the Russian Federation.

<sup>30</sup> The Protection Rules establish the following size of protected zones of main pipelines:

- along pipeline routes: a plot of land limited by assumed lines appearing 25 m away from the pipeline axis on each side;
- along underwater crossings: a section of the aquatic area from the water surface to the bottom enclosed between parallel planes appearing 100 m away from the axes of marginal crossing strings on each side;
- around processing units for product preparation for transportation, other surface facilities indicated in the Protection Rules: a plot of land limited by a closed line appearing 100 m away from the boundaries of the territories of the indicated facilities on all sides.

31 The protected zone size is not subject to change including reduction.

32 Publications express an opinion that the protected zone size may be changed if the category of a pipeline is upgraded following a major repair [11]. It appears that there is a slight mistake here. A change in the oil pipeline characteristics may result in a change of minimum distances rather than the protected zone.

33 The protected zone is considered established from the pipeline commissioning date based on a regulatory act, being the Protection Rules. The Rules do not stipulate an adoption of a resolution on the establishment of the protected zone by any government authorities [12], but in the real-case scenario local self-government authorities sometimes adopt such resolutions.

34 The protected zone regime is terminated upon exclusion of the protected zone data from the Unified State Register of Real Estate following decommissioning and full dismantling of an oil pipeline section.

35 Any actions that may intervene with the normal operation of pipelines or result in their damage are prohibited in the protected zones, in particular, it is prohibited to remove, bury and knock down any identification signs, control and measurement points, toss garbage, demolish any constructions preventing pipelines from damage and preventing emergency spill of the transported products into the adjacent territory and the surroundings, to light fire and place open or closed fire sources.

36 Building any structures, planting trees and shrubs, making pathways and crossings, parking lots for vehicles and other mechanisms, making orchards and vegetable gardens and performing some other activity types is possible only upon consent (approval) of the pipeline company.

37 The authorization-based procedure is an efficient mechanism ensuring safe operation of a hazardous production facility and safety of life and health of people who happen to stay in the development area surrounding a hazardous production facility.

38 However, practical implementation of this procedure arouses disputes as the Protection Rules and TR EAEU 49/2020 stipulate the need to obtain a permit from the pipeline company but fail to give a clear list of criteria the pipeline company should be guided by at the time of adoption of the resolution.

39 Clause 3, Article 106 of the LC RF stipulates that it is not allowed to request an approval of placement of buildings, constructions or performance of other activity types within the boundaries of a restricted use zone.

40 When construed word-for-word, this provision may be interpreted in two ways: as a prohibition to an entity planning specific activities in a RUZ to request approval of such activities by the pipeline company or vice versa as a prohibition to the pipeline company to request other persons to obtain approval of such pipeline company in respect of activities in a RUZ.

41 The Constitutional Court of the Russian Federation clarified the matter in ruling No. 43-II of October 13, 2022. The court explained that Clause 3, Article 106 of the LC RF rules out the authorization-based procedure as implying subjective discretion of pipeline companies and consequently restricting the rights of land plot owners on an

unjustified basis. The regulations of the Government of the Russian Federation on RUZs should foresee an exhaustive list of RUZ limitations not dependent on resolutions of a pipeline company. However, the authorization-based procedure is still possible in the transition period until approval of the regulations by the Government of the Russian Federation in order to ensure safety but provided that a denial of approval of activities in a RUZ should be justified from the safety standpoint (should not be unmotivated).

<sup>42</sup> Publications note that the new laws already contain some exceptions from the general rule on the prohibition of the authorization-based procedure in respect of activities in a RUZ (for minimum distances to main pipelines, aerodrome adjacent territories, roadsides), and there is an opinion that the number of such exceptions may grow in the future [13]. In our opinion, in order to maintain the consecutive approach, the authorization-based procedure should be retained not only in respect of minimum distances but also in respect of protected zones provided that resolutions of pipeline companies are substantiated. The Constitutional Court of the Russian Federation supports this position in ruling No. 43-II of October 13, 2022:

<sup>43</sup> *“The institution of obtainment of a preliminary consent of the authorized organization for construction or reconstruction of buildings and structures in the protected zone of electric grid facilities is designed to ensure reliable and safe operation of such facilities, protect life and health, given that a denial of such approval should be substantiated and may be challenged in court. The institution itself fulfills the requirements of [Articles 17 \(Part 3\)](#) , [19 \(Parts 1 and 2\)](#) , [34 \(Part 1\)](#) , [35 \(Parts 1 – 3\)](#) , [36](#) , [46](#) and [55 \(Part 3\)](#) of the Constitution of the Russian Federation as performance of its functions maintains the equality of property and other rights and legal interests of legal entities and individuals on the one hand, and rights (authorities) of owners (holders) of electric grid facilities and their obligations on the other hand.”*

<sup>44</sup> In accordance with the Protection Rules, the information on the protected zones is indicated on information boards the oil pipeline route is marked with [14] and is subject to registration with the Unified State Register of Real Estate (the “USRRE”) (Art. 106 of the LC RF).

### <sup>45</sup> **III. The concept and regime of minimum distances to a main oil pipeline**

<sup>46</sup> In accordance with Clause 5 of TR EAEU 49/2020, minimum distances to main pipeline facilities mean the minimum proximity to main pipeline facilities of objects, buildings and constructions not referred to a main pipeline that ensures the minimum required level of protection of such facilities against hazardous factors that may arise in the course of operation of main pipeline facilities.

<sup>47</sup> In accordance with Clause 2.2 of the Protection Rules, hazardous production factors of main pipelines include: destruction of a pipeline or its elements accompanied with dispersion of metal and soil fragments, product combustion in case of pipeline destruction, open fire and thermal impact of the fire, explosion of the gas-air mixture, collapse of and damage to buildings, constructions, installations, low oxygen concentration, smoke, product toxicity.

<sup>48</sup> A comparison of the definition of minimum distances and the definition of the protected zone clarifies the difference in regulation purposes. While the protected zone

is established to protect an oil pipeline itself, minimum distances are established to protect other facilities located near a pipeline.

<sup>49</sup> Prior to the adoption of Law No. 342-FZ, minimum distances were not viewed as RUZs, they were nothing but urban development gaps established by construction regulations and rules. In our opinion, inclusion of minimum distances in the number of RUZs has made regulation even more complicated including since minimum distances are not of uniform size and vary depending on the oil pipeline type and the type of the facility they are established to. Maybe the legislator should review this approach and exclude minimum distances from the number of RUZs.

<sup>50</sup> The “old” minimum distances established by Set of Rules 36.13330.2012 Main Pipelines. Updated Version of Construction Rules and Regulations 2.05.06-85\* (Clause 2 of the Digest of Case Law approved by the Presidium of the Supreme Court of the Russian Federation on June 23, 2021) remain in effect until approval of the regulation on the minimum distance zone by the Government of the Russian Federation.

<sup>51</sup> Based on Clause 1.1 of Set of Rules 36.13330.2012, its scope of application is design of new and reconstructed main pipelines.

<sup>52</sup> In the real-case scenario, there has been developed an approach stipulating that minimum distances should be observed not only during design and construction of an oil pipeline but also in case of further construction of facilities in the surrounding area [15]. This approach has legal grounds since by virtue of Part 5 of Art. 55.24 of the Urban Development Code of the Russian Federation, a facility should be operated in accordance with the project documents.

<sup>53</sup> The judicial practice also confirms that minimum distance provisions are applicable not only in the pipeline design and construction period, but also in the operation period (Clause I.1 of the Digest of Case Law approved by the Presidium of the Supreme Court of the Russian Federation on July 6, 2016, Ruling of the Constitutional Court of the Russian Federation No. 2318-O of October 6, 2015).

<sup>54</sup> Based on Table 4 of Set of Rules 36.13330.2012, the minimum distance is 10 m, the maximum distance is 3,000 m (75–200 m to residential development depending on the nominal pipe diameter). Table 5 of Set of Rules 36.13330.2013 also stipulates minimum distances to site facilities of oil pipelines. Similar minimum distances are established by Annex No. 2 of TR EAEU 49/2020.

<sup>55</sup> Facilities cannot be placed closer than the stipulated minimum distance between the oil pipeline and such facility without the approval of the pipeline company. There are no other prohibitions related to the establishment of minimum distances.

<sup>56</sup> The protected zone and minimum distances are calculated from the pipeline axis. For example, if the protected zone of an oil pipeline is 25 m, and minimum distances are 100 m, the 25-meter stripe adjacent to the pipeline route is simultaneously in the protected zone and within minimum distances, while the subsequent 75-meter stripe is within minimum distances only.

<sup>57</sup> The territory that is simultaneously in the protected zone and within minimum distances is covered by restrictions related to the protected zone and by prohibition of

construction stipulated by construction provisions and rules for minimum distances (similarly to the existing restriction addition principle [16]).

<sup>58</sup> Difficulties are caused by the procedure for regulation of minimum distance reduction as it is complicated, unclear, ambiguous and scattered across a number of regulatory acts.

<sup>59</sup> Based on Note 4 to Table 4 of Set of Rules 36.13330.2012, minimum distances can be reduced by the maximum of 30 % provided that the nominal (calculated) thickness of pipe walls is increased by the same percentage as distance reduction.

<sup>60</sup> In accordance with Note 6 to Table 4 of Set of Rules 36.13330.2012, if buildings and constructions are located above ground elevations, minimum distances can be reduced by up to 25% provided that the adopted distances are at least 50 m.

<sup>61</sup> These wordings often lead to erroneous conclusions made by people interested in minimum distance reduction stating that the pipeline company has to approve such reduction if a facility that is planned to be built is located higher than an oil pipeline or that an increase in pipe wall thickness is the only and sufficient condition for reduction of minimum distances by 30%.

<sup>62</sup> However, according to Clause 200 of the Federal Provisions and Rules in the Industrial Safety Sphere: Safety Rules for Hazardous Production Facilities of Main Pipelines (approved by Order of the Federal Environmental, Industrial and Nuclear Supervision Service of Russia No. 517 of December 11, 2020), minimum distances are determined taking into account the calculation of accident and incident risks. Such calculation is performed within the framework of preparation of justification of industrial safety of a hazardous production facility (Order of the Federal Environmental, Industrial and Nuclear Supervision Service of Russia No. 306 of July 15, 2013).

<sup>63</sup> Clause 11 of Annex No. 2 of TR EAEU 49/2020 stipulates that established minimum distances can be reduced only provided that there are compensatory engineering and technical solutions.

<sup>64</sup> Considering the above, minimum distances cannot be reduced voluntarily. Any deviation from the requirements is possible only based on the results of a performed risk analysis under condition of development and implementation of safety compensating events.

<sup>65</sup> In order to solve challenging issues related to the minimum distance reduction opportunity, it is reasonable to get legal regulation specified or for the Supreme Court of the Russian Federation to issue explanations.

<sup>66</sup> Since minimum distances are given the RUZ status, they are subject to the general requirement for introduction of data on their borders in the USRRE (Art. 106 of the LC RF as amended by Law No. 342-FZ).

<sup>67</sup> Publications express an opinion that the obligation to register minimum distance zones with the USRRE was stipulated even before Law No. 342-FZ entered into effect (i.e., before August 4, 2018) [17] but this opinion is hard to agree with as minimum distances were not earlier referred to RUZs, the information on which is included in the USRRE.



<sup>68</sup> In accordance with Part 19 of Art. 26 of Law No. 342-FZ, pipeline companies have to send by January 1, 2024, to the Ministry of Energy of Russia graphic descriptions of minimum distances based on the largest ratio stipulated by Tables 4, 5 of Set of Rules 36.13330.2012. Following verification of correctness and approval of materials, the Ministry of Energy will refer them to the Federal Service for State Registration, Cadastre and Cartography for recording of the data with the USRRE by January 1, 2025.

<sup>69</sup> Recording of the data with the USRRE will result in showing of minimum distance boundaries on a public cadastral map available to the general public on the Internet [18], which will reduce the risk of unauthorized development of minimum distances.

#### <sup>70</sup> **IV. Measures of prevention of violations of the regime of protected zones and minimum distances**

<sup>71</sup> The main mechanism of prevention of violations of the regime of protected zones and minimum distances is provision of public access to the information on their boundaries.

<sup>72</sup> If municipal authorities and land plot title holders are unaware of the RUZ boundaries, this will inevitably result in provision of land plots in RUZs for activity types that contradict the RUZ regime, and actual performance of such activities at a risk for safety of people and pipelines.

<sup>73</sup> Article 107 of the LC RF and Part 2 of Art. 26 of Law No. 342-FZ allow persons who have acquired land plots not knowing of their encumbrance to request main pipeline owners in whose favor the land plots are encumbered or public authorities to buy out such plots at market value. That said, the pipeline company is the proper defendant in the buy-out dispute if it has earlier approved land plot development or failed to provide data on the oil pipeline route to local government authorities. Considering the above, local government authorities and pipeline companies are interested in making RUZ information public. Otherwise, they will bear the costs of land plot buy-out and compensation of losses to persons who have acquired land plots in conditions of unawareness and/or have developed them.

<sup>74</sup> The pipeline protection rules stipulate the following means of notification about an oil pipeline route and the associated restrictions:

- Marking-out of an oil pipeline route with information boards 1.5–2 m high set within the line-of-sight distance but at least every 500 m and at intersection angles.
- Filing (submission) of materials to local government authorities about the actual pipeline location (executive survey) with reference to protected zones, pipeline communications and facilities.
- Submission of information on pipeline location through local radio and press (at least quarterly).

<sup>75</sup> As noted above, data on all RUZs are to be introduced in the USRRE (Art. 106 of the LC RF). Pipeline companies have finished the largest share of the works in respect of protected zones, but the works in terms of minimum distances are still to be completed by January 1, 2025. It is expedient to accelerate the process of introduction of

the data on minimum distances in the USRRE to prevent the development of minimum distances.

<sup>76</sup> In the meantime, the registration of data on the boundaries of minimum distances will stir up the disputes in respect of constructions of third parties that are already built within such boundaries.

<sup>77</sup> Until registration of the data in the USRRE, pipeline companies have to take efforts to inform local government authorities and third parties about the existing limitations, take part in the approval of territorial planning, urban development zoning and land planning documents and also participate in the respective public hearings. Publications fairly note the importance of territorial planning documents as a source of data on the established RUZs [19].

<sup>78</sup> **V. Measures of restraint of violations of the regime of protected zones and minimum distances**

<sup>79</sup> As noted above, the primary task of pipeline companies is ensuring publicity of data on boundaries of protected zones and minimum distances.

<sup>80</sup> However, pipeline companies do not substitute government authorities in exercising of powers of state and municipal control and supervision over compliance with RUZ laws by third parties.

<sup>81</sup> Moreover, pipeline companies are not obligated to initiate legal proceedings against citizens and organizations violating the RUZ regime (judicial recourse is a right rather than an obligation except for the cases directly established by the law [20]).

<sup>82</sup> Judges usually acknowledge illegal rare claims of territorial controlling authorities against pipeline companies relating to the development of protected zones and minimum distances as the guilty parties in this case are not pipeline companies but the persons violating the RUZ regime (Ruling of the Federal Anti-Monopoly Service for the North-Caucasian District of November 8, 2012 in case No. A32-36729/2011, Judgment of the Commercial Court of the Republic of Tatarstan of April 17, 2019 in case No. A65-35873/2018).

<sup>83</sup> Authorities of the Federal Environmental, Industrial and Nuclear Supervision Service of Russia have a mechanism of influence on the persons violating protected zones by bringing them to the administrative liability under Art. 11.20.1 of the Administrative Offense Code of the Russian Federation (the “AOC RF”).

<sup>84</sup> Article 11.20.1 of the AOC RF is not applicable to violations of minimum distances. Since the size of minimum distances has been set by the construction rules and regulations, it appears that the persons guilty of their violation should be held liable under Art. 9.4 of the AOC RF Violation of Obligatory Requirements in the Sphere of Construction and Application of Construction Materials (Products). Rulings in this case category are issued by officials of state construction supervision authorities.

<sup>85</sup> Controlling authorities may also issue a mandatory instruction to the guilty person for rectification of violations of the applicable laws; untimely performance of such instruction also entails administrative liability (Art. 19.5 of the AOC RF).

<sup>86</sup> A pipeline company that has made the information on RUZs public surely cannot be responsible for illegal actions of third parties, however, it has the right to safe operation of pipelines it owns and is interested in prevention of the threat to life and health of people in case of an accident or incident at a hazardous production facility.

<sup>87</sup> In the event of identification of violations, pipeline companies may protect their rights as follows:

- Issue instructions to offenders for termination of works performed in violation of the protected zone or minimum distance regime (Clause 5.13 of the Protection Rules).
- Apply to controlling authorities for carrying out of state and/or municipal control activities.
- Appeal to court if other methods are inefficient and in situations when the violation directly infringes on the rights of the pipeline company (for example, if unauthorized construction works in the protected zone obstruct access to the pipeline or pose a direct threat to the pipeline safety).

<sup>88</sup> Articles 304 and 1065 of the Civil Code of the Russian Federation (CC RF) may be a legal ground for filing a claim to court for termination of unauthorized works in the protected zone or demolition / disassembly of facilities built in the protected zone or within minimum distances. Article 304 of the CC RF consolidates the item owner's right to claim rectification of violations of his right not related to dispossession (a negatory action). Article 1065 of the CC RF establishes that the danger of causing damage in the future may be a ground of a claim for prohibition of activities creating such danger (a preventive action [21]).

<sup>89</sup> In virtue of Paragraph 1 Clause 1 of Article 222 of the CC RF, a real estate unit built in violation of obligatory requirements is recognized as an unauthorized construction subject to demolition according to the general rule.

<sup>90</sup> Publications rightly note that economic needs and the ownership right (in this case, to facilities constructed in violation of the RUZ regime) are not unconditional and should not outweigh prime interests of protection of the environment, human safety, etc. [22].

<sup>91</sup> That's why demolition of unauthorized constructions is a justified and proportionate measure in cases when safety cannot be ensured otherwise.

<sup>92</sup> However, if a developer has objectively been unaware of or could not be aware of land plot encumbrance in form of a protected zone or minimum distances, the facility constructed by this developer is not recognized as an unauthorized construction (Paragraph 2, Clause 1 of Article 222 of the CC RF). Such facility can be demolished according to the procedure established by Law No. 342-FZ upon prior compensation of all owner's costs.

<sup>93</sup> According to the law, constructions that are not recognized as unauthorized and are located within minimum distances can be demolished only after the data on boundaries of minimum distances are introduced in the USRRE and the owner's costs are compensated provided that safety cannot be ensured by other methods (Parts 38–40 of Art. 26 of Law No. 342-FZ).

<sup>94</sup> As publications reasonably note, land plot use restrictions are described in regulatory acts that are officially published, which creates a presumption of awareness of third parties of such restrictions [23]. However, in order to determine the boundaries of the protected zone and minimum distances, the interested person should at least have the information on the location of the oil pipeline route.

<sup>95</sup> A separate mention must be made of the cases when the conditions for development of protected zones and minimum distances arise as a result of illegal actions of local self-government authorities, e.g., approval of territorial planning documents or establishment of the permitted use type of the land plot taking no account of the RUZs. In such a situation, pipeline company can also appeal illegal activities (actions) of municipal authorities in a judicial procedure.

## <sup>96</sup> **VI. Conclusions**

<sup>97</sup> Protected zones of main oil pipelines are important instruments ensuring oil pipeline safety and minimum distances are an instrument of protection of life and health of people, the surrounding buildings.

<sup>98</sup> We agree with the opinion expressed in publications that the implementation of the updated provisions of the LC RF is currently obstructed by the absence of the required legal framework (the Government of the Russian Federation has not adopted the RUZ regulations), ambiguous interpretation of legal requirements and absence of the required volume of the law enforcement practice [24].

<sup>99</sup> There remains the problem of unauthorized development of protected zones and minimum distances. It is especially serious with regards to minimum distances. This problem should be solved by prompt introduction of data on protected zones and boundaries of minimum distances in the USRRE. We believe that minimum distances should not be referred to RUZs but should as before be treated as urban development gaps established by construction regulations and rules for the purposes of succession of legal regulation and avoidance of its unjustified complication.

<sup>100</sup> One more problem lies in unclear regulation of minimum distance reduction, which requires specification of the regulation or at least explanations of the Supreme Court of the Russian Federation.

<sup>101</sup> In the current conditions, it is important that pipeline companies continue their work aimed at assignment of the public status to data on oil pipeline routes, their protected zones and minimum distances as well as reaction to violations of the RUZ regime by third parties using the means described in this article (primarily by issue of instructions for termination of violations and appeal to controlling authorities).

<sup>102</sup> However, the efforts of pipeline companies are not enough to ensure compliance with the RUZ regime. Legally qualified activities of public authorities in terms of territory zoning, provision of lands for development, exercising of state and municipal supervision (control) are a top priority. And of course, it's of utmost importance that citizens and companies comply with the requirements of the RUZ laws, perform construction and other activities at land plots around oil pipelines with the required degree of good faith and due diligence.

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# Protected Zones and Minimum Distances to Main Oil Pipelines (Petroleum Product Pipelines): The Concept, Legal Regime and Meaning for Secure Operation of Main Pipeline Transport Facilities

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## **Abstract**

A significant risk faced by oil pipeline companies in operation of main pipeline transport facilities is violation by third parties of the regime of protected zones and minimum distances to oil pipelines and petroleum product pipelines (collectively referred to as “oil pipelines”). No regulations establishing the legal regime of protected zones and minimum distance zones have been adopted yet. Absence of any regulations triggers law enforcement problems including origination of court disputes. This paper studies the main provisions on protected zones and minimum distances within the framework of their impact on the security of operation of main oil pipelines, life and health of people, analyzes concepts and regimes of the protected zone and minimum distances from the standpoint of the goal of their introduction, brings forward recommendations and proposals for minimization of legal risks.

**Keywords:** energy law, legal regime of a main pipeline, restricted use zones, protected zone of a main pipeline

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