



Правовой энергетический форум 2013-2024

ISSN 2079-8784

URL - <http://ras.jes.su>

Все права защищены

Выпуск № 1 Том . 2023

Offset of Emission Permits among Legal Entities Taking Part in the Permit Allocation Experiment (on the Example of Companies of the Fuel and Energy Complex)

Голубь Надежда Владимировна

*Leading Legal Counsel of the Department of Legal, Corporate and Property Relations at Territorial Generating Company No. 11, JSC, Territorial Generating Company No. 11 Joint-Stock Company
Российская Федерация, Омск*

Аннотация

Issues of protection of the atmospheric air are among the priority ones for the state. However, operations of companies in certain production sectors, which inter alia include the fuel and energy complex (FEC), are directly associated with the emission of pollutants into the atmosphere. A permit allocation experiment has been approved within the framework of the Clean Air federal project but the experiment performance procedure has a number of gaps making it impossible to efficiently reduce the pollutant emission volume. The author has studied the main problems on the example of the FEC, in particular, heat supply and generating companies. The impossibility of permit-regulated companies to dispose of permits including by way of redistribution may lead to serious consequences for both the environmental and energy security of the country. The solution proposed by the author is introduction in the applicable laws of the mechanism of redistribution (offset) of pollutant emission permits, which will allow to drastically reduce the atmospheric air pollution level in large industrial centers.

Ключевые слова: energy law, energy security, emission permits, permit allocation experiment, reduction in atmospheric air pollution

Дата публикации: 31.03.2023

Ссылка для цитирования:

Голубь Н. В. Offset of Emission Permits among Legal Entities Taking Part in the Permit Allocation Experiment (on the Example of Companies of the Fuel and Energy Complex) // Правовой энергетический форум – 2023. – Выпуск № 1 С. 67-76 [Электронный ресурс]. URL: <https://mlcjournal.ru/S231243500025252-5-1> (дата обращения: 19.05.2024). DOI: 10.18254/S231243500024433-4

¹ The Constitution of the Russian Federation enshrines the right of everyone to favorable environment [1] since the life quality of the population largely depends on such factors as the environmental situation, in particular, the atmospheric air quality.

² Issues of protection of the atmospheric air and reduction in the volume of emissions and the concentration of pollutants are among the priority ones for the state. Minimization of the negative environmental impact is put under special control of the President of the Russian Federation, for which reason there was issued Decree of the President of the Russian Federation No. 204 of May 7, 2018 On National Goals and Strategic Tasks of the Development of the Russian Federation for the Period up to 2024 [2] (“Decree No. 204”).

³ Based on Paragraph 3, Subclause A, Clause 7 of Decree No. 204, one of the key environmental goals set to the Government of the Russian Federation is a drastic reduction in the atmospheric air pollution level in large industrial centers by 2024 including an at least 20 % reduction in the total volume of pollutant emissions into the atmospheric air in the most polluted cities.

⁴ In pursuance of the environmental provisions of Decree No. 204, the Presidium of the Council for the Strategic Development and National Projects under the President of the Russian Federation approved the passport of the Ecology national project by minutes No. 16 of December 24, 2018, which includes the implementation of the Clean Air federal project in the period from October 1, 2018, to December 31, 2024 [3]. The said document has been then replaced with a new Passport approved by the Ministry of Natural Resources and Environment of the Russian Federation [4].

⁵ Federal Law No. 195-FZ of July 26, 2019 On Conducting of a Pollutant Emission Permit Allocation Experiment and Amendment of Certain Legal Acts of the Russian Federation in Terms of Reduction in the Atmospheric Air Pollution [5] (“Law No. 195-FZ”) was adopted within the framework of the implementation of the Clean Air federal project.

⁶ The experiment on allocation of permits for emission of pollutants (except for radioactive substances) into the atmospheric air based on summary estimates of the atmospheric air pollution (the “experiment”) is aimed at reducing the negative environmental impact level and is conducted from January 1, 2020 to December 31, 2026 [6].

⁷ At the same time, it is worth paying attention to the fact that operations of companies in certain production sectors are directly associated with the emission of pollutants into the atmosphere. This concerns companies of the fuel and energy complex among others.

⁸ Thus, for example, the production of heat and electric energy on the present stage of development of the respective technologies is impossible without occurrence of

combustion products, resins and other substances making a negative environmental impact. The volume and composition of emitted pollutants differs depending on the features of engineering processes at facilities making a negative environmental impact. Meanwhile, operations of companies in the energy sphere are unceasing and any suspension results in negative consequences for the respective legal entities, the population of the region and the state in general.

⁹ Consequentially, we believe that the above indicated goals consolidated in Decree No. 204 cannot be achieved without close cooperation with companies that are part of the fuel and energy complex. It is no coincidence that among the key areas of activities of the Government of the Russian Federation for the period up to 2024 there are reduction in atmospheric air pollution and development of the energy infrastructure [7].

¹⁰ As noted earlier, it has been resolved to conduct an experiment to improve the environmental situation by introducing emission permits and thus reducing the volumes of pollutants emitted into the atmospheric air; 12 city districts most polluted in terms of the atmospheric air have become the initial participants of the experiment. In accordance with Clause 2 of Article 2 of Law No. 195-FZ, each territory of the experiment has approved a complex measure plan to reduce the emission of pollutants into the atmospheric air.

¹¹ Thus, based on the requirements of Law No. 195-FZ, emission regulation activities in the territory of the experiment are as follows:

¹² - introduction of permits for emission of pollutants into the atmospheric air based on summary estimates;

¹³ - approval of complex measure plans to reduce the emission of pollutants into the atmospheric air.

¹⁴ Emission permits are introduced in accordance with the Rules for Allocation of Permits for Emission of Pollutants (Except for Radioactive Substances) into the Atmospheric Air (“Permit Allocation Rules No. 814”) based on summary estimates for each facility making a negative environmental impact (the “NEI facilities”) [8]. Such permits are determined in respect of each priority pollutant for the aggregate of emission sources of a permit-regulated facility (permit-regulated facility in general).

¹⁵ Specific emission permit figures are calculated based on the degree of impact of each priority pollutant of a permit-regulated facility in each permit allocation point determined based on summary estimates on the excess of hygienic standards of the atmospheric air quality.

¹⁶ Two types of permit-regulated facilities can be singled out based on the provisions of Permit Allocation Rules No. 814.

¹⁷ - facilities that affect the excess of the indicated standards in permit allocation points;

¹⁸ - facilities that do not affect the excess of the hygienic standards in permit allocation points.

19 Emission permits are allocated based on the permit-regulated facility type:

20 - if facilities affect the hygienic standards in permit allocation points, emission permits are allocated based on the calculation of admissible contributions to the concentration (the emission permit figure is set in gram/second (maximum one-time concentrations));

21 - if facilities do not affect the hygienic standards, the authorized body allocates permits based on the need to reduce the total emission volume in the specific experiment territory by at least 20 percent of the total emission volume of 2017 (the emission permit figure is set in tons per annum (gross)).

22 Thus, a legal entity, whose negative impact facilities take part in the experiment, has different emission permits for each priority pollutant emitted into the atmospheric air in the course of production. Such permits are introduced separately in respect of each NEI facility or the aggregate of emission sources of a permit-regulated facility.

23 In accordance with Article 1 of Federal Law No. 7-FZ of January 10, 2002 On Environmental Protection ("Law No. 7-FZ"), facilities making a negative environmental impact are facilities that negatively affect the environment, i.e., deteriorate its quality: physical, chemical, biological or other indicators [9].

24 When it comes to companies operating in the sphere of production of heat and electric energy and (or) heat supply, it is worth paying attention to the fact that such companies often consist of several structural subdivisions (two and more) acting as independent NEI facilities.

25 The gross emission of pollutants by each NEI facility can seriously differ because of the multitude of factors including engineering features, power output, type and quality of used fuel, equipment and other parameters.

26 The companies operating permit-regulated facilities develop measure plans in order to comply with emission permits. Undoubtedly, such actions are primarily aimed at update and repair of equipment and development of new technologies to enable emission reduction.

27 However, in the author's opinion, one cannot ignore the fact that the legal entities that are obligated to ensure replacement of old and acquisition of new equipment have come across a number of problems in modern realities. One of them is restriction of foreign supplies.

28 The import substitution process is not always quick enough to enable companies of the fuel and energy complex to implement any necessary measures within the terms established by the emission permit measure plan. Besides, absence of Russian substitute equipment required to implement the planned actions slows down and sometimes makes it impossible to implement such actions without a major technology change resulting in the adjustment of the actions themselves.

29 Speaking of changes in technologies and equipment in the sphere of heat supply, production of heat and electric energy, it's imperative that one understands the importance of qualitative changes that will drive out any risks associated with termination of rendering of critical services to the population and supply of the key

industrial enterprises with the required resources (electric energy, steam, etc.). As a result, the absence of Russian equipment during the sanctions period, disruptions at any of the supply stages can lead to the company being unable to reach the required emission volume reduction within the established terms. In this case, a decrease in output and production volumes is the only option to comply with the allocated permits.

³⁰ Let us illustrate the danger of such solution on the example of a heat supply company. For example, the said company has several heat-and-power stations (HPSs), boiler stations that provide heat energy to the population and act as permit-regulated NEI facilities. Such HPSs use natural gas to produce heat energy and ensure heat supply to a specific territory (constituent entity) of the Russian Federation.

³¹ Development of breakthrough technologies that would enable emission reduction by at least 20 percent requires much time and full HPS upgrade provided that there is financial stability and huge financial investments. Since there is currently no opportunity to meet the conditions above, such company can achieve a major reduction in the gross pollutant emission volume only by decreasing the volume of consumed fuel by means of reduction in the number of operating equipment units and duration of their work. Such reduction will inevitably lead to a decrease in the volume of production and supply of heat energy resulting in the impossibility to provide heat to consumers in full (the major part of the consumers being the population of this or that region).

³² Thus, the heat supply company described in the example above is facing a choice, whether to comply with the introduced emission permits and implement the Clean Air federal project or to supply heat to the population on a high-quality basis and discharge the obligations of uninterrupted supply of the required resources to the region. Failure to discharge the last-mentioned obligation can lead to serious negative consequences including a threat to the energy security of the country especially during winter months in severe climate conditions, for example, in the regions of the Siberian Federal District.

³³ It seems that the described problem can be solved by introduction of a mechanism of redistribution (offset) of emission permits.

³⁴ The justified character of this proposal is inter alia confirmed by the fact that in early 2022 mass media published information on the development of the respective bill by the Ministry of Natural Resources and Environment of the Russian Federation [10]. However, at the moment, there is no regulation that would introduce a mechanism of changing or offset of the established emission permits.

³⁵ As noted above, one legal entity is sometimes unable to comply with the set permits because of objective factors. Introduction of the opportunity to redistribute (offset) permits and establishment of regulatory requirements for such redistribution (offset) will make it possible to solve the existing problems including achievement of the goals of the Clean Air federal project and the required reduction in the pollutant emission volume in the experiment territories including when compliance with the emission permits set by the authorized body is impossible from the engineering standpoint due to the engineering features of production and social importance of permit-regulated facilities.

36 It seems necessary to include Section 7 Emission Permit Redistribution (Offset) in Permit Allocation Rules No. 814 and establish the required offset implementation mechanisms. Giving legal entities operating NEI facilities a chance to redistribute (offset) emission permits will create the required conditions for solution of existing problems.

37 We believe that one can single out two potential permit redistribution (offset) types: redistribution of emission permits among NEI facilities owned by one legal entity and offset of emission permits among several legal entities with permit-regulated facilities participating in the experiment.

38 As a result of redistribution (offset), emission permits can be divided into:

39 - redistribution (offset) of emission permits of permit-regulated facilities that affect the excess of the hygienic standards in permit allocation points;

40 - redistribution (offset) of emission permits of permit-regulated facilities that do not affect the excess of the hygienic standards in permit allocation points.

41 However, in our opinion, introduction of the first redistribution type only (within one legal entity) cannot fully ensure achievement of the set rates as NEI facilities of one company often have similar technical (engineering) characteristics, volume and list of emitted pollutants. Meanwhile, introduction of the right of a permit-regulated company to offset permits among its NEI facilities will give it an opportunity to implement technical upgrade measures (reconstruction or other measures) without the risk of non-compliance with the rates set in respect of its permit-regulated facility.

42 Thus, the measure plan of a generating company to comply with emission permits can stipulate upgrade of boiler units of one of NEI facilities, which will inevitably require long-term equipment reconstruction (retooling, repair) and suspension of works. In order to discharge the production obligations in good faith, the generating company has to redistribute the generation volume among other NEI facilities being a part of this legal entity.

43 So, the pollutant emission volumes of other facilities will undoubtedly grow for the period of implementation of measures aimed at the achievement of compliance with emission permits at the NEI facility that is out of the production process. However, the emissions at the updated NEI facility will plummet. Offset of emission permits in such situation will enable the generating company to perform the planned measures without any loss of the output volumes or being brought to liability for violation of the provisions of Law No. 195-FZ and Permit Allocation Rules No. 814.

44 In the meantime, the second type of redistribution (offset) of emission permits among different legal entities will not only enable to achieve a major reduction in the aggregate volume of pollutants emitted in the atmospheric air but also create conditions for further development of the fuel and energy complex.

45 As noted by the Russian Union of Industrialists and Entrepreneurs (the “RSPP”), the condition for efficiency of the experiment is the opportunity of the companies to dispose of their permits including by means of resale as permits are a market mechanism [11]. It’s hard not to agree with this opinion as permits allocated by

the authorized body can really cause a situation when compliance with them results in inexpediency of continuation of operations of an economic entity in general. For example, heat supply companies can find themselves in such situation when they are unable to comply with the set rates without a reduction in the output volumes. However, it can be avoided by redistribution (offset) of permits among companies.

⁴⁶ There is an opinion in the doctrine that such offset can take place on a free-of-charge, fee-based and mixed basis [12]. It seems that the mechanism of free-of-charge redistribution of emission permits is insufficiently efficient due to the absence of proper motivation for various permit-regulated companies to exceed the established minimum figures of emission volume reduction. Besides, such situation can cause an irresponsible approach to the reduction in pollutant emissions as the absence of money-based interest will facilitate non-compliance with permits even if there are objective opportunities.

⁴⁷ We believe that the free-of-charge emission permit redistribution method can be applied only within one legal entity or a group of companies in order to lower the financial burden.

⁴⁸ Admission of a fee-based offset in the event of redistribution (offset) of emission permits among NEI facilities of several legal entities will enable companies to purchase permits the compliance with which they can ensure at a certain price. In this case, one of the companies is sort of responsible for the impossibility to reach the target rates in form of operating costs, while the other, on the contrary, is awarded with additional profit.

⁴⁹ The fee-based method of redistribution (offset) of emission permits provides financing to the company the permit is allocated to so that it could implement obligatory measure plans.

⁵⁰ Companies of the fuel and energy complex carry out business activities, thus, the opportunity to receive money in the event of over-fulfillment of permit rates (when the achieved emission reduction figure exceeds the set permit rate) will make a positive impact and raise the interest in maximum development of the respective infrastructure and equipment.

⁵¹ Thus, fee-based offset will give a chance to use the money obtained as a result of redistribution to implement the measures aimed at equipment upgrade that in its turn is expected to positively affect the efficiency of companies of the fuel and energy complex in terms of the environmental security of power generation equipment.

⁵² We suggest including the following provisions in Section 7 Emission Permit Redistribution (Offset) of Permit Allocation Rules No. 814 in order to implement the emission permit offset (redistribution) mechanism:

⁵³ 1. To introduce the right of permit-regulated companies to redistribute (offset) the permits allocated to a NEI facility: both internally (within one legal entity or a group of companies) and externally (among several legal entities).

⁵⁴ 2. To establish the principle of voluntary and good faith participation in permit redistribution (offset). The author believes that these principles will exclude corruption in a situation when a company exceeding the pollutant volume reduction rates for some

reason does not wish to redistribute the difference between the established permit and the achieved emission reduction figure (when the actual result ensured better compliance with the permit). A prohibition against forced offset of permits will protect legal entities from abuse of power by authorized bodies and prevent “withdrawal” of permits in the cases when such actions can lead to negative consequences for such company.

⁵⁵ Thus, if a legal entity plans some upgrade-related measures, emissions can temporarily increase, for example, in case of experimental deployment of new equipment not used in production earlier. Consequently, forced “withdrawal” of permits without the consent of the legal entity can in fact result in further violation of the established rates by such legal entity even in case of good faith compliance with the provisions of Law No. 195-FZ, which is inadmissible.

⁵⁶ 3. Stipulate a methodology of calculation of admissible values of permits that can be redistributed (offset). As noted above, the emission permit figure depends on the degree of impact of a NEI facility on the excess of the hygienic standards of the atmospheric air quality in permit allocation points.

⁵⁷ It seems necessary to include in Permit Allocation Rules No. 814 a provision on offset limitation if there are several NEI facilities in one permit allocation point that affect the hygienic standards and are in excess in terms of the same priority pollutant. In such situation, it is expedient to ban redistribution of the permit concerning the above mentioned priority pollutant to a NEI facility located in a different permit allocation point in order to prevent excess of the admissible concentration of certain pollutants.

⁵⁸ We think that if a NEI facility exceeds the admissible contributions to the concentration, emission permits can be redistributed only as an exception. It should be foreseen that an obligatory condition is the responsibility to calculate the volume of emissions of a priority pollutant in a specific territory by all NEI facilities located in such territory. If the emission volume reduction rates persist, such redistribution can be approved by the authorized body. That said, the borders of such territory should be determined on an individual case-by-case basis taking into account natural and other factors in order to exclude substantial deterioration of the atmospheric air quality and the quality of life of the population in the adjacent territories. The opportunity for such redistribution and the required calculation mechanism should also be reflected in the Rules for Making Summary Estimates of Atmospheric Air Pollution [13].

⁵⁹ An offset calculation methodology should also be developed for NEI facilities that have a permit ensuring an at least 20 % reduction in the aggregate emission volume in accordance with the provisions of Law No. 195-FZ. The suggested section of Permit Allocation Rules No. 814 should contain such calculation mechanism so that permit-regulated companies would be able to assess risks from redistribution and controlling authorities would confirm the absence of any violations of the introduced standards in the entire experiment territory.

⁶⁰ In the development of the suggested methodology, one should pay attention to the fact that determination of experiment results takes into account a reduction in the aggregate emission level in the entire experiment territory (city district) rather than at separate NEI facilities or specific permit allocation points.

⁶¹ Thus, not only are permit-regulated companies interested in the efficiency of the permit redistribution mechanism and the quality of control over its implementation but also the supreme officials of a constituent entity of the Russian Federation (heads of the supreme executive authority of a constituent entity of the Russian Federation) are personally responsible for achievement of the required rates.

⁶² It appears that complicated processes of approval and validation of permit redistribution in offset of permits among NEI facilities that do not affect hygienic standards of the atmospheric air quality need to be abolished to lower the burden on controlling authorities and prevent any interference with market relations between permit-regulated companies based on the principle of contractual freedom. Observance of the established standards by such companies should give them the offset right upon prior notification of the authorized body and further submission of a report on implemented measures to comply with own permits and redistributed emission permits. We believe that such notice can be filed by inclusion in the emission permit compliance measure plan of provisions on the required or potential offset of permits with another NEI facility that does not affect hygienic standards in the permit allocation point.

⁶³ In order to align and optimize the process of control of the respective authorities over the redistribution (offset) mechanism, it is also expedient to amend the Regulation on the Inter-Departmental Council for Conducting an Experiment [14], namely, supplement Clause 3 of the said regulation with the following text:

⁶⁴ “d) review of issues related to approval (denial of approval) of redistribution (offset) of permits of facilities making a negative environmental impact if, based on summary estimates, their emissions of priority pollutants exceed hygienic standards of the atmospheric air quality at least in one permit allocation point;

⁶⁵ e) review of permit redistribution (offset) notices and reports, registration of redistributed emission permits”.

⁶⁶ It appears that close cooperation between permit-regulated persons (that inter alia include companies of the fuel and energy complex) and legislative and executive authorities is the only way to ensure the most efficient reduction in the atmospheric air pollution level and raise the environmental status (rating) of regions taking part in the permit allocation experiment.

⁶⁷ Summing up the above, we believe that the proposed changes will not only ensure environmental security of energy companies by reduction of the negative impact of their facilities on the environment, namely, the atmospheric air, but will also act as an incentive for the development of the fuel and energy complex and other branches of industry thanks to the development and deployment of new technologies that allow reduction of pollutants emitted into the atmospheric air without reducing the production efficiency.

⁶⁸ Apart from the above, the opportunity to redistribute (offset) emission permits among experiment participants will give a chance to avoid or minimize the risks of non-discharge of imperative emission reduction requirements and bringing the perpetrators to responsibility.

⁶⁹ Thus, the Ministry of Natural Resources and Environment of the Russian Federation has developed a draft of the Federal Law (revised text) On Amendment of the Administrative Offense Code of the Russian Federation in Terms of Liability for Violation of Laws on Conducting an Experiment on Allocation of Permits for Emission of Pollutants into the Atmospheric Air (prepared by the Ministry of Natural Resources and Environment of Russia, project ID 02/04/07-21/00117556) [15]. The mentioned bill stipulates fines for violation of requirements of Law No. 195-FZ. In particular, failure to comply with the allocated permits by experiment participants will entail imposition of fines that are calculated for legal entities based on the aggregate revenue from sale of all goods (works, services) for the preceding year (but at least RUB 4,000,000).

⁷⁰ Such fine imposition approach has been criticized. Representatives of the RSPP note that introduction of turnover-based fines for permit violation can undermine the financial position and normal functioning of companies [16]. They believe that such fines can also reduce investments in the environmental sphere and result in more serious environmental problems in the future.

⁷¹ Based on an analysis of the interactive map on the website of the Ministry of Natural Resources and Environment of Russia, the emission volumes have already reduced in the experiment territories. Of course, sanctions for culpable non-compliance with the allocated permits are required in order to support the results and exclude a bad faith attitude to fulfillment of the requirements of Law No. 195-FZ. Nevertheless, apart from the application of the principle of inevitability of punishment, one should also consider the principle of adequacy of punishment, the character and circumstances of the committed violation and its danger for the society. In the current conditions, we think it possible and absolutely necessary to review the amounts of fines stipulated by the above mentioned draft and lower them down to a real (objectively admissible) level to allow a permit-regulated company to implement measures aimed at the reduction of pollutant emission volumes including by means of permit redistribution (offset) after the execution of punishment and fine payment.

⁷² Meanwhile, in the author's opinion, we should also keep in mind that the process of bringing to the administrative liability, challenging of adopted resolutions (rulings) can delay the achievement of goals of the Clean Air federal project and implementation of the required reduction in the emission of pollutants into the atmospheric air by business entities.

⁷³ Thus, amendments to Permit Allocation Rules No. 814 in terms of adding the provisions on the admissibility of redistribution (offset) of emission permits among legal entities will enable achievement of the goals set by the President of the Russian Federation and described in Decree No. 204, substantially lower pollution of the atmospheric air in large industrial centers and eliminate the risk of bringing of economic entities to liability for the failure to comply with emission permits that have initially been impossible to comply with from the objective standpoint.

1. Constitution of the Russian Federation (adopted on December 12, 1993 by a nationwide vote with amendments approved on July 1, 2020, by an all-Russian vote) // Official Internet portal of legal information <http://www.pravo.gov.ru>, February 1, 2023.
2. Decree of the President of the Russian Federation No. 204 of May 7, 2018 On National Goals and Strategic Tasks of the Development of the Russian Federation for the Period up to 2024 // Official Internet portal of legal information <http://www.pravo.gov.ru>, February 1, 2023.
3. Passport of the Ecology national project (approved by the Presidium of the Council for the Strategic Development and National Projects under the President of the Russian Federation, minutes No. 16 of December 24, 2018) // Official website of the Ministry of Natural Resources and Environment of the Russian Federation <http://www.mnr.gov.ru>, January 26, 2023.
4. Passport of the Ecology national project (approved by the Ministry of Natural Resources and Environment of Russia) // Official website of the Ministry of Natural Resources and Environment of the Russian Federation <http://www.mnr.gov.ru>, January 26, 2023.
5. Federal Law No. 195-FZ of July 26, 2019 (as amended and supplemented on March 26, 2022) On Conducting of a Pollutant Emission Permit Allocation Experiment and Amendment of Certain Legal Acts of the Russian Federation in Terms of Reduction in the Atmospheric Air Pollution // Official Internet portal of legal information <http://www.pravo.gov.ru>, January 20, 2023.
6. Federal Law No. 71-FZ of March 26, 2022 On Amendment of Certain Legal Acts of the Russian Federation // Official Internet portal of legal information <http://www.pravo.gov.ru>, February 5, 2023.
7. The Key Areas of Activities of the Government of the Russian Federation for the Period up to 2024 (approved by the Government of the Russian Federation, No. 8028П-П13 of September 29, 2018) // ConsultantPlus reference legal system.
8. Order of the Ministry of Natural Resources and Environment of Russia No. 814 of November 29, 2019 On Approval of Rules for Allocation of Permits for Emission of Pollutants (Except for Radioactive Substances) into the Atmospheric Air // Official Internet portal of legal information <http://www.pravo.gov.ru>, January 26, 2023.
9. Federal Law No. 7-FZ of January 10, 2002 (as amended and supplemented on July 14, 2022) On Environmental Protection // Official Gazette of the Russian Federation. January 14, 2002. No. 2. Art. 133.
10. See: URL: <https://www.kommersant.ru/doc/5282815>
11. See: URL: <https://www.vedomosti.ru/business/news/2019/04/15/799117-zakonoproekt-zagryaznyayuschih-vibrosov>; <https://www.interfax.ru/russia/658198>

12. See: Radishauskas T.A. The Permit Trading System as One of the Methods of Improvement of the System of Environmental Activities in Russia / T.A. Radishauskas // International Research Journal. 2016. No. 4 (46). URL: <https://research-journal.org/archive/4-46-2016-april/sistema-torgovli-kvotami-kak-odin-iz-metodov-sovershenstvovaniya-sistemy-prirodooxranenij-deyatelnosti-v-rossii>, 07.02.2023. DOI: 10.18454/IRJ.2016.46.120
13. Order of the Ministry of Natural Resources and Environment of Russia No. 813 of November 29, 2019 On Approval of Rules for Making and Update of Summary Estimates of Atmospheric Air Pollution // Official Internet portal of legal information <http://www.pravo.gov.ru>, February 5, 2023.
14. Order of the Ministry of Natural Resources and Environment of Russia No. 805 of November 27, 2019 On the Inter-Departmental Council for Conducting an Experiment on Allocation of Permits for Emission of Pollutants (Except for Radioactive Substances) into the Atmospheric Air Based on Summary Estimates of Atmospheric Air Pollution (together with the Provision on the Inter-Departmental Council for Conducting an Experiment on Allocation of Permits for Emission of Pollutants (Except for Radioactive Substances) into the Atmospheric Air Based on Summary Estimates of Atmospheric Air Pollution) // Official Internet portal of legal information <http://www.pravo.gov.ru>, February 2, 2023.
15. See: URL: <https://regulation.gov.ru/>
16. See: URL: https://rspp.ru/events/news/biznes-vystupil-protiv-oborotnykh-shtrafov-za-prevyshenie-kvot-na-vybrosy-62d13e9964d4e/?sphrase_id=246399

Offset of Emission Permits among Legal Entities Taking Part in the Permit Allocation Experiment (on the Example of Companies of the Fuel and Energy Complex)

Nadezhda V. Golub

*Leading Legal Counsel of the Department of Legal, Corporate and Property Relations at Territorial Generating Company No. 11, JSC, Territorial Generating Company No. 11 Joint-Stock Company
Russian Federation, Omsk*

Abstract

Issues of protection of the atmospheric air are among the priority ones for the state. However, operations of companies in certain production sectors, which inter alia include the fuel and energy complex (FEC), are directly associated with the emission of pollutants into the atmosphere. A permit allocation experiment has been approved within the framework of the Clean Air federal project but the experiment performance procedure has a number of gaps making it impossible to efficiently reduce the pollutant emission volume. The author has studied the main problems on the example of the FEC, in particular, heat supply and generating companies. The impossibility of permit-regulated companies to dispose of permits including by way of redistribution may lead to serious consequences for both the environmental and energy security of the country. The solution proposed by the author is introduction in the applicable laws of the mechanism of redistribution (offset) of pollutant emission permits, which will allow to drastically reduce the atmospheric air pollution level in large industrial centers.

Keywords: energy law, energy security, emission permits, permit allocation experiment, reduction in atmospheric air pollution

Publication date: 31.03.2023

Citation link:

Golub N. Offset of Emission Permits among Legal Entities Taking Part in the Permit Allocation Experiment (on the Example of Companies of the Fuel and Energy Complex) // Energy law forum – 2023. – Issue 1 C. 67-76 [Electronic resource]. URL: <https://mlcjournal.ru/S231243500025252-5-1> (circulation date: 19.05.2024). DOI: 10.18254/S231243500024433-4