

SUPERVISORY ACTIVITIES

Review article

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FEATURES OF PREVENTIVE MEASURES IN SUPERVISION ACTIVITIES

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Abstract. Examples of normative consolidation of the reform of control (supervisory) activities in terms of the emergence of new types of activities are considered. The importance of preventive activities is emphasized, reflecting today's realities of implementing control (supervisory) activities. The issues of a moratorium on inspections until 2030 are touched upon. The types of preventive measures are given, and the features of preventive visits are outlined. A conclusion is made about the differences between individual terminological components mentioned in the Decree of the Government of the Russian Federation «On the peculiarities of the organization and implementation of state control (supervision), municipal control» and the Federal law «On state control (supervision) and municipal control in the Russian Federation» with a statement of the peculiarities of the interpretation of the term «mandatory preventive visit».

Keywords: fire safety, fire supervision, changes in supervision, fire prevention, control and supervisory activities

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Introduction

Today, a reform of control (supervisory) activities is taking place, the idea of which originated back in 2015–2016, and has finally become normatively established in 2020 [1]. Thus, on July 1, 2021, the Federal Law of July 31, 2020 came into force.

«On state control (supervision) and municipal control in the Russian Federation» (Federal law № 248) [2], which introduced new control (supervisory) measures in comparison with the Federal law «On the protection of the rights of legal entities and individual entrepreneurs in the exercise of state control (supervision) and municipal control», which today does not apply to federal state fire supervision [3]. For example, in Federal law № 248 you can see new measures for supervision in the field of fire safety, namely inspection visit and random control. It is also worth noting that Federal law № 248 pays great attention to preventive activities.

The importance of preventive activities [4] is emphasized by the decree of the Government of the Russian Federation «On the peculiarities of the organization and implementation of state control (supervision), municipal control» (PPRF № 336) [5], which reflects today's realities of the implementation of control (supervisory) activities. In all regulatory and supervisory authorities there is a tendency to reduce the load on small and medium-sized businesses to support entrepreneurs and create a favorable environment under conditions of sanctions and the difficult economic situation in the country. Thus, the Prosecutor General of the Russian Federation I.V. Krasnov called for compliance with restrictions on inspections. As a result, in the first ten days of 2022, about 200 thousand control (supervisory) activities were canceled out of 292 thousand originally planned [6].

The moratorium on inspections was extended until 2030 [7]. But objects of control (supervision) cannot remain without some kind of inspection and supervision. This means that it is necessary to pay more attention to the preventive activities of government bodies. This statement is confirmed

by the statement of the President of the Russian Federation at the Saint-Petersburg International economic Forum on August 17, 2023. Putin V.V. expressed his position that inspections against business entities that do not belong to a high or extremely high risk category should be canceled. And in relation to these subjects, carry out only preventive measures [8]. Also in December 2023, the government approved the Concept for Improving Control (Supervisory) Activities until 2026, which provides, among other things, for the introduction of new approaches to the prevention of violations [9].

Prevention comes to the fore among control (supervision) activities. If we consider preventive activities in a broad sense, then it is necessary to refer to the Federal law «On the Fundamentals of the crime prevention system in the Russian Federation» [10, 11].

It is also necessary to emphasize that now the controlled person can independently submit an application for a preventive visit. This action provides a methodological and consulting function for entrepreneurs in many professional fire safety issues. This idea was expressed on August 4, 2023 by the President of the Russian Federation and instructed to make changes to Federal law № 248 and certain legislative acts.

Types of preventive measures

Today, control (supervisory) activities have a number of features. Control (supervision) activities can be divided as shown in Fig. 1 [12]. Carrying out planned and unscheduled events is possible only under certain conditions [5, 12].

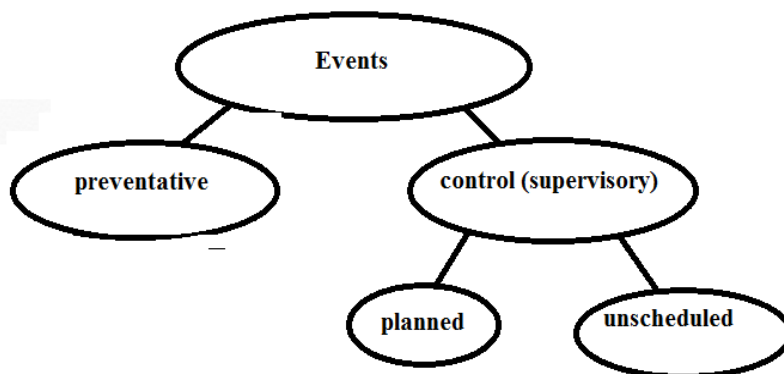


Fig. 1. Scheme of activities carried out by supervisory authorities

Considering preventive measures, the following types are distinguished, carried out by the state fire supervision authorities (SFN) (Fig. 2) [12].

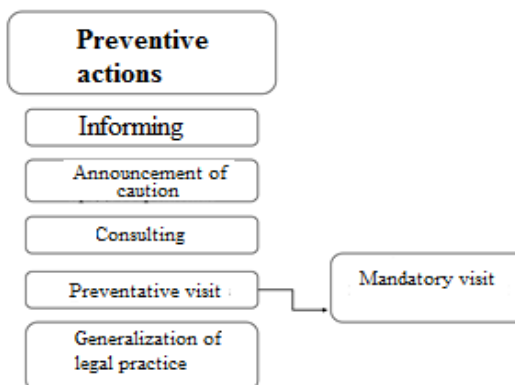


Fig. 2. Types of preventive measures carried out by the State fire service bodies
Features of preventive visits

Thus, according to Federal law № 248, a preventive visit is carried out by an official of the state public safety authority within one working day in the form of a preventive conversation in person at the actual location of the object or using audio and video communications. The controlled person is notified of the start of this event no later than five working days. The owner, in turn, has the right to refuse, making sure to notify the State Fire Regulatory Authority about this no later than three days before the start of the preventive visit. If there is information about impending violations or signs of violations of fire safety requirements, the GPN inspector issues a warning about the inadmissibility of violations of mandatory fire safety requirements. Failure to comply with an issued warning does not entail legal liability, however, controlled persons are still interested in eliminating violations, since fulfilling a warning is a criterion of good faith, which in the future can lower the risk category of the object, and therefore reduce the number of planned supervisory activities as a consequence (Fig. 3) [13].

20	12. Failure to submit a fire safety declaration in accordance with the established procedure in relation to the object of protection, for which the legislation of the Russian Federation on urban planning activities provides for an examination of project documentation	No	0
21	13. Failure by a controlled person to submit, within the period established in the warning about the inadmissibility of violating mandatory requirements, notification of taking measures at the facility to ensure compliance with mandatory requirements of legislation in the field of fire safety	No	0
22	14. Availability of information about improper operation of existing automatic fire protection systems in case of fire	Yes	0
23	15. Availability of information on the suspension of the license of a legal entity or individual entrepreneur to carry out activities for the maintenance and repair of fire safety equipment due to gross violations of licensing requirements	No	0
24	16. Provision by a controlled person of an insurance contract for the risks of harm (damage), the object of which is the property interests of the controlled person associated with his obligation to compensate for harm (damage) to legally protected values caused as a result of violation of fire safety requirements	No	0
	17. Voluntary provision of a fire safety declaration (Article 64 of the Federal Law "Technical Regulations on Fire Safety Requirements") in relation to the facility (outdoor installation)	No	0

Fig. 3. Screenshot of part of the interface of the software tool «Calculator for assigning objects of protection to a certain risk category in the implementation of federal state fire supervision» (calculator): determining the criteria of integrity

There are certain categories of control objects at which planned supervisory activities are permitted, namely those classified as extremely high and high risk. But PPRF № 336 also states that planned activities are interchangeable with a preventive visit, since these categories of protection objects are not included in inspection plans until 2030. In this case, the controlled person cannot refuse this visit. Also, such a visit provides for the possibility of requesting documents, conducting an instrumental examination, inspection, sampling (samples), testing and examination. And the period, in turn, can be increased up to three working days or for the period of examination or testing on the motivated submission of the inspector. In case of identified violations, an order is issued to eliminate the identified violations.

What control objects were classified in this category?

At one time, PPRF № 336 provided an exhaustive list (Fig. 4):

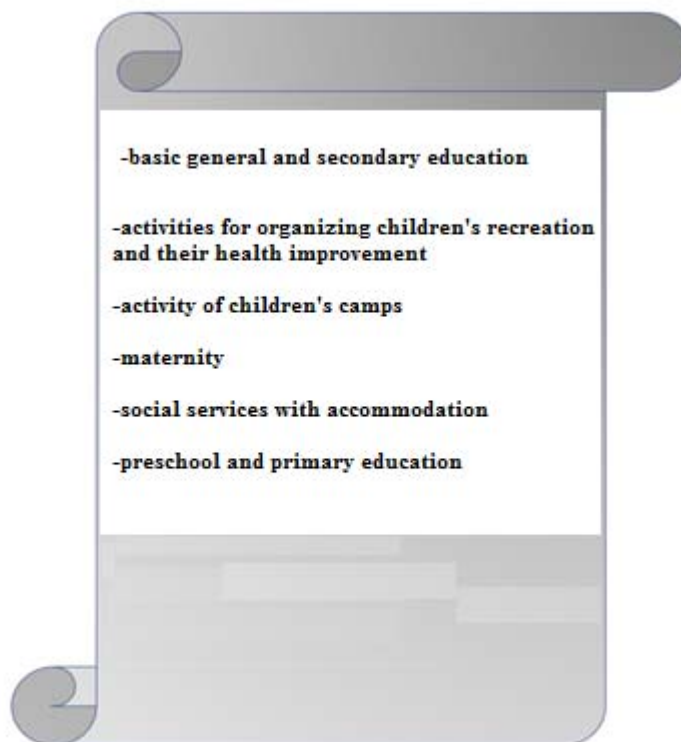


Fig. 4. List of control objects at which supervisory measures were allowed to be carried out in 2022, according to PPRF № 336

Conclusion

Thus, it is possible to trace significant changes in regulatory legal acts and modern trends in control (supervisory) activities. There are also differences between the preventive visit to Federal law № 248 and PPRF № 336.

Federal law № 248 mentions a «mandatory preventive visit», but does not provide a clear definition. We assume that the legislator includes a preventive visit in this concept in accordance with PPRF № 336, thereby separating the concepts.

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