

ON SOME FEATURES OF THE STATE CONTROL (SUPERVISION) IMPLEMENTATION IN THE FIELD OF FOOD PRODUCTS SAFETY AND QUALITY PROVISION

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Abstract

Purpose: The present article deals with the search for effective solutions to the modern problems of organizing state and municipal control (supervision) in the Russian Federation.

Methodology: The presented paper is based on data formulated in doctrinal and legislative sources of Russia and foreign countries. The methodological basis of this study consists of the methods of analysis, synthesis, and comparative law.

Result: The article examines the features of the control measures concerning business entities engaged in the implementation and production of food. It suggests possible ways of improving the procedure for conducting inspections. One of these ways, in the authors' judgment, is the introduction of an additional tool that strengthens the evidence base and deters unscrupulous business entities to escape from punishment. The authors substantiate the conclusion that a key factor in the success of control and supervisory activities at the international level is to increase the orientation of the control bodies towards the achievement of the final socially significant results. [Stouffer, K., & Falco, J. \(2006\)](#)

Applications: This research can be used for universities, teachers, and students.

Novelty/Originality: In this research, the model On Some Features of the State control (Supervision) Implementation in the Field of Food Products Safety and Quality Provision is presented in a comprehensive and complete manner.

Keywords: *business activity, state control, inspections, food products.*

INTRODUCTION

In recent decades, the role of state control (supervision) in various spheres of society and state's life has increased significantly, there is a global trend of risk growth in socio-economic development due to the influence of both natural and man-made factors ([OECD, 2014](#)). The catering services delivery and the quality of the food products sold remains a special area at risk of violations. Risk appraisal while ensuring the quality and safety of articles of food in modern socio-economic relations of market entities is an increasingly necessary condition for the formation of competitive supply and consolidation of the achieved economic effects ([Hoffmann, 2018](#); [Lofstedt, 2018](#)). An additional point is that the problem of ensuring the quality and safety of foods is of particular relevance in the difficult conditions of import substitution. Healthy food is the most important factor which is conducive to the maintenance of the health of a modern person ([Nikitina, Nikitin, 2017](#)).

Partially it refers to the issues of public health protection to the area of priority of the Russian state. The right of citizens to health protection guaranteed by the Constitution of the Russian Federation is ensured including (as noted in Article 17 of the Fundamentals of Legislation on the Protection of Citizens' Health), "production and sale of pure food products" ([The Constitution of the Russian Federation, 1993](#); [Federal Law of November 21, 2001](#)).

However, the modern model of state control (supervision) over the quality and safety of food that exists in Russia and in some other countries of the world does not always meet the stated goal. In modern conditions, an important factor in the success of control and supervisory activities at the international level is to increase the orientation of the control bodies towards the achievement of final socially significant results.

METHODS

The presented paper is based on data formulated in doctrinal and legislative sources of Russia and foreign countries. The methodological basis of this study consists of the methods of analysis, synthesis, and comparative law.

RESULTS AND ITS DISCUSSION

The analysis of judicial practice shows that the most common violations in the sphere of compliance with food safety requirements are: 1) the sale of food that do not meet the mandatory quality requirements (detection of coliform bacteria, nitrates, plant sterols in products, excess of product of a specified component; of expired products circulation permit); 2) the production of food products in breach of the mandatory requirements (inclusion in the technological process for the

production of food raw materials the use of which is not provided; organization of the production process in rooms that do not meet sanitary standards, etc.) ([Federal Law 294, 2008](#); [Federal Law of December 31, 2014](#)).

The timely detection of these violations is essential to ensure the well-being of the population and prevent the harm to a large number of consumers (mass poisoning, infectious and non-infectious diseases). When detecting substandard products, inspection authorities have the right to take measures to their withdrawal from circulation and subsequent destruction. However, until not long ago there were objective reasons that impede the timely detection of these violations. Thus, Federal Law № 294-ФЗ dated December 26, 2008 “On the Protection of the Rights of Legal Entities and Individual Entrepreneurs in Implementing State Control (Supervision) and Municipal Control” (hereinafter referred to as Federal Law № 294) defines the duties of state authorities as a general rule, to notify the inspected legal entities and individual entrepreneurs in advance of the start of an unscheduled on-site inspection. According to the general rule, legal entities should be notified in any way possible to start an unscheduled on-site inspection 24 hours in advance. If the notification was not or it was conducted in breach of the established procedure, then the results of the inspection may be invalidated. [Hubbard, M. R. \(2012\)](#)

Many years of experience of applying this provision of the law in relation to organizations engaged in the production of food products and (or) in the circulation of food products and (or) the provision of catering services has shown that often information about the upcoming audit is used by unscrupulous business entities in order to conceal the facts of violations, stop illegal production for the period of the upcoming inspection. The consequence of this and one of the first steps aimed at increasing the effectiveness of supervisory measures to ensure the quality and safety of food products was the adoption of the Federal Law №532-ФЗ dated December 31, 2014 “On Amendments to Certain Legislative Acts of the Russian Federation in Relation to Falsified, Counterfeit, Substandard and Unregistered Medicines, Medical Products and Adulterate Dietary Supplements” which were amended to Federal Law № 294. [Hubbard, M. R. \(2012\)](#)

According to the updated version of Paragraph 4 of Article 1 of Federal Law № 294, the specifics of organizing and conducting inspections in terms of the type, subject matter, reasons for conducting inspections, the timing and frequency of inspections, notifications of unscheduled field inspections and coordination of unscheduled field inspections with prosecutors can be established by other federal laws with implementation, including the state control (supervision) in the field of quality assurance and food safety. In accordance with Part 2 of Article 13 of Federal Law № 29, when organizing and conducting measures for state supervision in the field of ensuring the quality and safety of food products, materials and products, prior notification of legal entities or individual entrepreneurs engaged in the production of food products, and (or) the turnover of food products, and (or) provision of catering services, the start of an unscheduled on-site inspection is not required. [Stouffer, K., & Falco, J. \(2006\)](#)

At the same time, when implementing these provisions, it is necessary to pay attention to the fact that their effective area still has some limitations. Firstly, the restrictions are determined by the content of the category “state supervision over the quality and safety of food products”. State supervision in the field of food quality and safety includes control over:

1. Nutritive value of food; [Broughton, E. I., & Walker, D. G. \(2010\)](#)
2. The safety of food products, materials, and products in contact with food products, perfumery, and cosmetic products, means and products for oral hygiene, as well as tobacco products (hereinafter referred to as products);
3. The safety of the conditions of development, preparation for the production and manufacture of products, their storage, transportation, sale and application (use);
4. The security of retail and catering services; [Lásztity, R., Petró-Turza, M., & Földesi, T. \(2009\)](#)
5. Conditions for utilization or destruction of risk-based, unsafe products; [Hubbard, M. R. \(2012\)](#)
6. The organization and conduct of sanitary and anti-epidemic (preventive) measures aimed at preventing diseases (poisoning) of people associated with the application (use) of products;
7. Conditions and quality of nourishment of the population. [Lásztity, R., Petró-Turza, M., & Földesi, T. \(2009\)](#)

Secondly, the regulatory framework preserved by Federal Law № 294. Thus, in accordance with Paragraph 2 of Article 10 of Federal Law № 294, subject to notification in any available way at least 24 hours prior to the start of the unscheduled on-site inspection, as a general rule, are the following inspections: 1) the expiration of the compliance time by a legal entity, an individual entrepreneur of a previously issued order to eliminate the revealed violation of mandatory requirements; 2) the order (direction) of the head of the state control (supervision) body issued in accordance with the instructions of the President of the Russian Federation, the Government of the Russian Federation and on the basis of the prosecutor’s request to conduct an unscheduled inspection as part of the supervision of the implementation of laws on materials and appeals received by the prosecutor’s office.

However, to conduct an inspection without prior notice due to the expiration of the compliance time by a legal entity, an individual entrepreneur of a previously issued order to eliminate the revealed violation of mandatory requirements, the content of a specific prescription is essential.

CONCLUSION

From the above provisions, it is possible to conclude that if a legal entity, an individual entrepreneur was ordered to fulfill a number of requirements related not only to issues in the field of quality assurance and food safety, then the inspection should be carried out per standard procedure (subject to the requirements of prior notice to the person to be inspected).

In addition, changes to the rules for notice of an upcoming audit apply only to the organization of an unscheduled field audit. At the same time, the requirements for the notification procedure of a scheduled inspection (prior to three working days), as well as for the coordination of inspections with the prosecutor's office are the same. In our opinion, this provision also needs updating.

High epidemiological significance for the population of activities related to the production of food products, the turnover of food products and the provision of catering services suggests that it is necessary to conduct scheduled inspections without additional prior notice. In this regard, the publication of a plan of scheduled inspections on the official websites of state authorities on the Internet information and communication network seems sufficient. In addition, there are the categories of violations that cannot be proved without confirmation of the purchase of a substandard product (sales of expired products, cheating in weighing and counting, etc.). In this connection, it seems necessary to introduce an additional tool that strengthens the evidence base and does not allow unscrupulous business entities to escape from punishment – empowering the federal executive authorities with the right to make the evidentiary purchase of food products.

Thus, with the legislative introduction of the above tools, the effectiveness of organizing and conducting measures for state supervision in the field of food quality and safety assurance can be significantly increased.

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REFERENCES

1. Federal Law 294- (2008). Ф3 of December 26, 2008 “On Protection of the Rights of Legal Entities and Individual Entrepreneurs in the Implementation of State Control (Supervision) and Municipal Control” // Collected Legislation of the Russian Federation of December 29, 2008 №52 (Part I) Article 6249
2. Federal Law of December 31, (2014). № 532-Ф3 “On Amendments to Certain Legislative Acts of the Russian Federation in Respect to the Circulation of Falsified, Counterfeit, Poor-Quality and Unregistered Medicinal Products, Medical Products and Counterfeit Dietary Supplements” // Collected Legislation of the Russian Federation of January 5, 2015 № 1 (Part I) Article 85.
3. Federal Law of November 21, (2001). № 323-Ф3 “On the basis of protection of public health in the Russian Federation” // Meeting of the legislation of the Russian Federation of November 28, 2011 № 48 Article 6724
4. Hoffmann S. (2018). Ensuring Food Safety around the Globe: The Many Roles of Risk Analysis From Risk Ranking to Microbial Risk Assessment// Risk Analysis Volume 30, Issue 5, pages 711–714. <https://doi.org/10.1111/j.1539-6924.2010.01437.x>
5. Lofstedt R. (2018). Communicating Food Risks in an Era of Growing Public Distrust: Three Case Studies// Risk Analysis Volume 33, Issue 2, pages 192–202. <https://doi.org/10.1111/j.1539-6924.2011.01722.x>
6. Nikitina T.I., Nikitin A.A. (2017). Modernization of health of system in the context of national security of Russia//Journal of Legal, Ethical and Regulatory Issues. Volume 19, Special Issue. P.1-6.
7. OECD (2014). Boosting Resilience through Innovative Risk Governance, OECD Publishing, Paris. Available: DOI: <http://dx.doi.org/10.1787/9789264209114-en>. <https://doi.org/10.1787/9789264209114-en>
8. The Constitution of the Russian Federation (1993). (adopted by nation-wide voting on December 12, 1993) // Russian newspaper of December 25, 1993, № 237;
9. Trienekens, J., & Zuurbier, P. (2008). Quality and safety standards in the food industry, developments and challenges. International Journal of Production Economics, 113(1), 107-122. <https://doi.org/10.1016/j.ijpe.2007.02.050>
10. Cen, H., & He, Y. (2007). Theory and application of near infrared reflectance spectroscopy in determination of food quality. Trends in Food Science & Technology, 18(2), 72-83. <https://doi.org/10.1016/j.tifs.2006.09.003>
11. Wang, N., Zhang, N., & Wang, M. (2006). Wireless sensors in agriculture and food industry—Recent development and future perspective. Computers and electronics in agriculture, 50(1), 1-14. <https://doi.org/10.1016/j.compag.2005.09.003>
12. Liu, P. (2010). Tracing and periodizing China's food safety regulation: A study on China's food safety regime change. Regulation & Governance, 4(2), 244-260. <https://doi.org/10.1111/j.1748-5991.2010.01078.x>
13. Feng, Y. Z., & Sun, D. W. (2012). Application of hyperspectral imaging in food safety inspection and control: a review. Critical reviews in food science and nutrition, 52(11), 1039-1058. <https://doi.org/10.1080/10408398.2011.651542>
14. Knowles, T. (2001). Trends in food safety: implications for European hotels. International Journal of Contemporary Hospitality Management, 13(4), 176-182. <https://doi.org/10.1108/09596110110389467>



15. Stouffer, K., & Falco, J. (2006). Guide to supervisory control and data acquisition (SCADA) and industrial control systems security.
16. Lásztity, R., Petró-Turza, M., & Földesi, T. (2009). History of food quality standards. *Food Quality And Standards-Volume I*, 10, 62.
17. Hu, D., Reardon, T., Rozelle, S., Timmer, P., & Wang, H. (2004). The emergence of supermarkets with Chinese characteristics: challenges and opportunities for China's agricultural development. *Development Policy Review*, 22(5), 557-586. <https://doi.org/10.1111/j.1467-7679.2004.00265.x>
18. Broughton, E. I., & Walker, D. G. (2010). Policies and practices for aquaculture food safety in China. *Food Policy*, 35(5), 471-478. <https://doi.org/10.1016/j.foodpol.2010.05.007>
19. Hubbard, M. R. (2012). *Statistical quality control for the food industry*. Springer Science & Business Media.