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Legal Alert

The deadline for the development of oil spill prevention and rehabilitation plans for onshore facilities is approaching

As we wrote previously in our overview of legislation in 2020, the President of the RF signed Federal Law No. 207-FZ dated 13 July 2020 “On amending article 46 of the Federal Law ‘On Environmental Protection’ and other legislative acts of the Russian Federation”. These amendments concern the prevention and rehabilitation of oil spills, as well as those of petroleum products, and came into force on 01 January 2021.

The Law was being considered by the State Duma for more than two years until the large spill of petroleum products in Norilsk served as the major catalyst for the draft law’s completion and subsequent adoption in the first reading in March of 2018.

A new environmental protection requirement was introduced by the Law that applies to the geological study, exploration and extraction of hydrocarbons as well as the processing (production), transport, storage and sale of hydrocarbons and their products – having prevention and rehabilitation plans for oil and petroleum product spills in place (previously they were required only for offshore fields).

In accordance with the amendments, companies (in the Law - “**exploiting organizations**”) carrying out the geological study, exploration and production of hydrocarbons, as well as the processing (production), transportation, storage, and sale of hydrocarbons and their products, have until **01 January 2024** to develop and approve such a prevention and rehabilitation plan for oil spills (hereinafter – “**LARN plan**”). On a related note, the term “exploiting organization” previously only applied to offshore fields, and the definition of this term for offshore fields (in the “marine” laws on the continental shelf and territorial sea) does not neatly overlap with the relevant definition for onshore fields (in the Federal Law on Environmental Protection).

A LARN plan is approved if a conclusion on the readiness of the exploiting organization to eliminate the consequences of oil and petroleum product spills is issued based on the results of comprehensive exercises, as well as in agreement with the Federal Service for Supervision of Natural Resources (Rosprirodnadzor).

Exploiting organizations are also obliged to provide enough financial security to completely compensate for damages to the environment, life, health and (or) the property of natural and legal persons. One of the following documents could serve as confirmation of such financial security:

- (i) bank guarantee of payment of amounts necessary for the implementation of measures provided for in the plan for the prevention and response of oil and petroleum products spills
- (ii) insurance contract, including full compensation for damage caused to the environment, life, health and property of citizens, property of legal entities as a result of oil and petroleum product spills
- (iii) a document confirming the creation of a reserve fund by the exploiting organization or several exploiting organizations
- (iv) letter of guarantee from a federal executive body, an executive body of a constituent entity of the Russian Federation or a local government body authorized to exercise the functions and powers of the founder or owner of the property of the operating organization

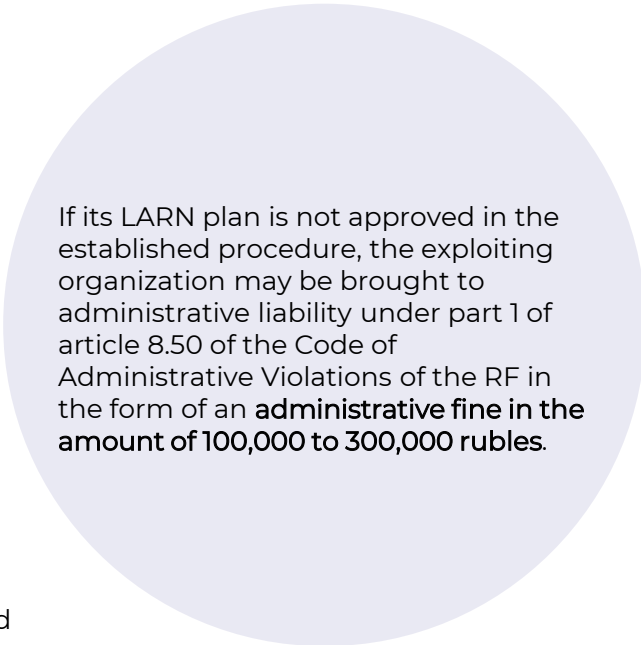
In accordance with the Methodology for calculating financial support for rehabilitation activities approved by Order of the Ministry of Natural Resources of Russia dated 31 December 2020 No. 1139, the amount of financial security does not depend on the method of generating such financial security and is determined for each rehabilitation event as follows: the volume of work to carry out the relevant activity in accordance with the oil and petroleum product spill prevention and rehabilitation plan is multiplied by the cost per unit of volume of such work. Then, for the purpose of calculating the total amount of financial security, the amounts of financial security calculated for each rehabilitation event are summed up.

Furthermore, the cost per unit of volume of such work is calculated according to the going rates in the constituent entities of the Russian Federation and includes both the exploiting organization's own expenses for the purchase of necessary materials and equipment as well as the costs of paying for the services of organizations engaged for localizing or eliminating oil and petroleum product spills.


We would also like to point out that the above methodology is not used to calculate the financial security for the implementation of measures provided for in the plan for the prevention and rehabilitation of oil and petroleum product spills on the continental shelf, in internal sea waters, in the territorial sea or the adjacent coastal zone of the Russian Federation.

In the event of an incident, the exploiting organization must notify the federal and regional executive authorities about said incident as well as ensure the coordination and implementation of measures for the localization and elimination of such incident's consequences in accordance with the plan approved by its emergency services (and (or) contact the authorized state bodies

with a request on assistance in localizing and eliminating the consequences of the incident), and after localizing the consequences of the incident, ensure the reclamation of contaminated lands as well as the restoration of vegetation and water bodies in accordance with the requirements of the law.



If its LARN plan is not approved in the established procedure, the exploiting organization may be brought to administrative liability under part 1 of article 8.50 of the Code of Administrative Violations of the RF in the form of an **administrative fine in the amount of 100,000 to 300,000 rubles.**



It is also worth noting that the requirements for onshore LARN plans differ from the current requirements for offshore LARN plans (in accordance with "marine" federal laws). In particular, the ecological expert report mandatory for offshore LARN plans is not required onshore. Federal Law No. 207-FZ supplemented the requirements for offshore LARN plans (as well as onshore) with the need to obtain a conclusion issued in the manner established by the Government of the Russian Federation on the readiness of the exploiting organization to take action to localize and eliminate oil and petroleum product spills based on the results of comprehensive exercises to confirm the readiness of the exploiting organization to take such actions.

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