

Oil & Gas of Sakhalin. Legal and Business Guide

Russin & Vecchi L.L.C.

XIII. Maritime Considerations: Oil Spill Prevention

Presented by Natalia Prisekina, Senior Associate Attorney and Director of the Vladivostok branch office of Russin & Vecchi

The Russian Federation is a party to several multi-lateral international conventions related to oil pollution issues. These include:

- 1) The International Convention *Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties* (Brussels, November 29, 1969) (recognizing the right of states to intervene in the open sea in the event of accidents or threatened accidents that could result in oil contamination of their coastlines, and incorporating a test for the adequacy of measures taken);
- 2) The International Convention *For the Prevention of Pollution from Ships* (November 2, 1973, as modified by the Protocol of 1978 relating thereto (except for Protocol of 1997) (introducing strict rules for the prevention of oil contamination of the sea in Appendix I to the Convention);
- 3) The International Convention *On Civil Liability for Oil Pollution Damage* (Brussels, September 29, 1969, as amended by the protocol of 1992) (dealing with civil liability for oil pollution, establishing, *inter alia*, instances where liability is excluded and limited); and
- 4) The International Convention *On the Establishment of an International Fund for Compensation for Oil Pollution Damage* (Brussels, December 18, 1971, as amended by the protocol of 1992) (supplementing the International Convention *On Civil Liability for Oil Pollution Damage* (Brussels, September 29, 1969) and discussing the procedure and organization of the International Fund for compensating oil pollution damage within certain limits).

U.S. Secretary of Energy Spencer Abraham and Russian Energy Minister Igor Yusufov met in September 2003 to discuss energy issues of interest to both countries and to implement the oil spill prevention and response agreement the two countries developed over the past year. They signed the oil spill response protocol at the second U.S.-Russia Commercial Energy Summit.

The original proposal, signed in March 2003, recommended extensive mutual assistance from both countries in the areas of technology, logistics, training, regulatory issues and exchange programs. It also recognized their common commitment to environmentally sustainable development and transportation of oil.

The Russian Federation has already developed oil spill contingency plans for each of its regions, and has worked closely with local government officials on plans applicable to marine bodies from the Black and Caspian Seas to the Barents and Pacific coast. The U.S. has meanwhile developed similar response plans, employing cutting-edge technologies to clean up oil spills, and constantly updated and improved technologies to prevent oil spills. Under the auspices of the protocol, the U.S. and Russia will share ideas, information, technologies and methods in order to assist both countries in increasing the effectiveness of their oil spill regulation, prevention and response.

Russian legislation¹ requires organizations that have production facilities that are con-

¹ Russian Federation Government Decree No. 613 "Concerning Urgent Measures on Prevention and Liquidation of Oil and Petroleum Products Emergency Spills," August 21, 2000 (modified by RF Government Decree No. 240, "On the Procedure for Organizing Measures for Oil and Petroleum Products Spills Prevention and Elimination within the Territory of the Russian Federation," April 15, 2002); and "Rules for Organizing Measures for Oil and Petroleum Products Spills Prevention and Elimination within the Territory of the Russian Federation."

sidered to be hazardous to have a plan with respect to the prevention and elimination of oil and petroleum products spills. Such plan must include the following:

- a) forecast of potential oil and petroleum products spills;
- b) estimate of resources required for liquidation of emergency situations connected with an oil and petroleum products spills and an assessment of the site capabilities in liquidation tasks and the need to employ professional emergency rescue units;
- c) resource organization scheme;
- d) description and location of resources;
- e) organization of control, communications and notification;
- f) procedure for resource preparedness with indication of the organizations responsible for keeping them at an established level of readiness;
- g) communication system linking spill liquidation participants;
- h) priority actions for emergency situation alert;
- i) technical aspects (geographic, navigation-hydrographic, hydrometeorology and other) of spill area that must be taken into account in organizing and conducting liquidation operations;
- j) assurances of safety of the population and the provision of medical aid;
- k) timetable for oil and petroleum products spills liquidation operations;
- l) organization of logistic, engineering and financial support of oil and petroleum products spills liquidation operations.

As part of such a plan, the organization must estimate the amount of resources necessary to clean up spills that may occur. The following factors must be considered in arriving at such an estimate:

- a) maximum potential spill volume;
- b) area covered by the spill;
- c) year the object (source) was placed in service and the year of its most recent major repairs;
- d) maximum spill volume at the object;
- e) physical-chemical properties of the spill;

- f) effect of the location of the object on the rate of spread of oil and petroleum products to determine

the possibility of their ingress into seas, rivers and inland ponds;

- g) technical conditions (hydro meteorological, hydro geological and other) at the object's location;
- h) capabilities of the object's available resources and also professional emergency rescue units stationed in the region (with an agreement in writing to participate in liquidation of oil and petroleum products spills);
- i) availability of oil waste trans-shipment, storage and processing ranges;
- j) transportation infrastructure in the area of a potential oil and petroleum products spill;
- k) time of delivery of resources to the scene of the emergency situation;
- l) time of localization of oil and petroleum products spill, which must not be more than 4 hours in the event of a water spill and 6 hours in the event of a land spill.

Various ministries of the Government must develop and approve lists of organizations responsible for the preparation of Oil Spill Response Plans ("OSRP")². Such lists, according to their sectoral affiliation, are approved by a federal executive body in agreement with the Ministry of the Russian Federation for Civil Defense Affairs, Emergency Situations and the Elimination of the Aftermath of Natural Disasters, the Ministry of Natural Resources of the Russian Federation, and with the Federal Mining and Industrial Inspectorate of Russia.

Organizations responsible for preparing OSRPs must form their own units for oil and petroleum products spills elimination, perform attestation procedures for these units in compliance with the legislation of the Russian Federation, equip them with special technical facilities and conclude contracts with professional emergency rescue services companies performing oil and petroleum products spills elimination works, and which hold relevant licenses and/or which have been attested in the established manner. They must immediately notify relevant governmental bodies and local governments regarding the facts of oil and petroleum products spills, organize their localization and elimination, and maintain financial and logistical resource reserves for the purpose of oil and petroleum products spills localization and elimination. They must train employees in protective techniques and operations in emergency situations relating to oil and petroleum products spills, maintain technological equipment in operable condition, conduct engineering/technical measures

² RF Government Decree No. 240 "On the Procedure for Organizing Measures for Oil and Petroleum Products Spills Prevention and Elimination within the Territory of the Russian Federation," April 15, 2002, ("Decree 240"), Item 3.

in advance aimed at prevention of potential oil and petroleum products spills and/or reduction of the scope of danger from their aftermath. They must also take measures to protect the life and health of employees in the case of an oil and petroleum products spill, declare the industrial safety of hazardous production objects, monitor production and observe industrial safety requirements at hazardous production objects, adjust plans in the event of changes in initial data, allow only qualified operators at hazardous production objects, without medical contra-indications for such work. In addition, they must hold a hazardous industrial object operation license as required by Russian legislation, and form and maintain in operable condition oil and petroleum products spills detection systems as well as communications and warning systems³.

OSRP measures are deemed complete after compulsory performance of the following: 1) stopping the dumping of oil and petroleum products; 2) collecting spilled oil and petroleum products to the maximum possible level corresponding to the technical characteristics of the special technical facilities used; and 3) storage of collected oil

and petroleum products for their later utilization excluding secondary pollution of production objects and the environment⁴.

In the event of an oil and petroleum products spill, the term of spill localization may not exceed four hours for spills in the area of water, and six hours for spills on the ground, timed from spill detection or receipt of information⁵.

Oil spill response plans must be capable of implementation on a 24-hour basis in all weather conditions (in the sea – when navigation and hydro meteorological conditions are admissible)⁶.

Where oil and petroleum products spills take on regional and federal significance, the Minister of the Russian Federation for Civil Defense Affairs, Emergency Situations and the Elimination of the Aftermath of Natural Disasters, has the right to convene an Inter-Departmental Commission for Emergency Situation Prevention and Elimination⁷.

³ Decree No. 240, Item 4.

⁴ Decree No. 240, Item 8.

⁵ Decree No. 240, Item 7.

⁶ Decree No. 240, Item 7.

⁷ Decree No. 240, Item 7.

XV. Water Use Licensing

Presented by Natalia Prisekina, senior associate attorney and Director of the Vladivostok branch office of Russin & Vecchi

The Water Code of the Russian Federation and its implementing regulation⁸, establish the main parameters for the regulation of water use in Russia. Although the Water Use Regulation establishes that the RF Ministry of Natural Resources (MNR) or its territorial bodies⁹ license water use, a subsequent MNR Order clarifies that construction, exploitation, exploration, amenities, and operation of undersea deposits including hydrocarbon resources, are licensed by the MNR in Moscow¹⁰.

As a general rule, rights to use water areas are acquired on the basis of a water use license issued by a state authorized body, and under an agreement for the use of the water area concluded in conformity therewith¹¹. In the event the agreement for use and the provisions of the water use license are contradictory, the agreement shall be deemed invalid¹².

Short-term use of a body of water may be established for a period of up to three years, and long-

term use for a period from three to 25 years, with the opportunity to prolong at the initiative of the water user¹³. The MNR has taken the position that advances in drilling technology are so frequent that long-term licenses are inappropriate.

The licensing body considers water use license applications within 30 days of their receipt along with the necessary accompanying documentation. Depending on the complexity and volume of materials, the licensing body may extend the term of its consideration by an additional 30 days. Moreover, if deemed necessary, the licensing body may order additional study of the application and its ac-

⁸ Decision No. 383 "On Approval of Regulations on Granting Use to Water Areas which are State Property, Setting and Revising Water Use Limits, and Issuing Water Use Licenses and Managerial Licenses" dated April 3, 1997 ("Water Code Regulation").

⁹ Water Code Regulation, Point 20.

¹⁰ MNR Order No. 226 "On Distribution of Authority in Accordance with Objects of Licensing," October 14, 1998, Addendum 1, Points 2.4 and 2.6.

¹¹ RF Water Code, Article 46.

¹² RF Water Code, Article 56.

¹³ RF Water Code, Article 42.

companying documentation, but must then issue its decision on licensing within 15 days of receipt of the results of the additional study, and in no case later than 60 days from the initial date of filing¹⁴. Rejection of a water use license application must be accompanied by a decision of the licensing body explaining the rejection¹⁵. Decisions and other actions of RF licensing bodies may be judicially contested¹⁶.

Although a positive ecological examination is a mandatory prerequisite for the MNR to grant a water use license¹⁷, it alone is not a guarantee of license issuance, as the application may be rejected, for example, due to the inadequacy of the license application or the necessary accompanying documentation.

The MNR must form a commission of independent experts to conduct the ecological examination within 30 days of receipt of an application accompanied by all of the necessary documentation and payment of the required fee¹⁸. The commission must reach its conclusions within four months from the date of issuance of a receipt confirming the applicant's payment of the fee. Where the MNR determines that an ecological examination is complex, the term for consideration may be extended for two additional months.

nation) must be given to the opinions of independent experts who disagree with the conclusions of the majority. The MNR must approve conclusions, and the head, the responsible secretary, and each independent expert of the commission must sign them in order for them to have legal force. Such conclusions cannot be altered without the consent of these individuals. This statutory framework appears to provide the MNR with the ability to delay the implementation of positive conclusions and the granting of a water use license by acting deliberately in approving or rejecting positive conclusions. Ecological examination conclusions may be judicially contested.

Once issued, a water use license, depending on the manner and objectives of use of a water area, must contain the following:

- ! information on the water area;
- ! information on the water user;
- ! information on the water consumers;
- ! a statement of the manner and objectives of use of a water area;
- ! an indication of the spatial limits (coordinates) of the water area or part thereof made available for use, and whenever necessary, the places of intake (drainage) of water;
- ! information on the limits of water use;
- ! information on the obligations of the water user with respect to the water consumers;
- ! the period of license validity;
- ! requirements for the rational use and protection of water areas and the environment¹⁹.

Ecological examination conclusions must be either positive or negative and must be approved by a majority of the independent experts on the commission. Special consideration (which is undefined in the Law on Ecological Exami-

¹⁴ Water Code Regulation, point 32.

¹⁵ Water Code Regulation, point 33.

¹⁶ Water Code Regulation, point 47.

¹⁷ Federal Law No. 174-FZ "On Ecological Expertise." November 25, 1995, Article 11, Point 7.

¹⁸ Section II of the Regulation promulgated to implement the Law on Ecological Expertise (RF Government Decision No. 698 "On Approval of the Regulation on the Procedure for Conducting State Ecological Expertise" of June 11, 1996).

¹⁹ RF Water Code, Article 49.

XVI. An Overview of the Major Aspects of Licensing Procedures

Presented by Sergei L. Lazarev, Partner of the firm's Russian Practice Group and Executive Director of the firm's Moscow office.

Basic Principles of Licensing

The Federal Law "On Licensing Certain Types of Activities" ("Law On Licensing")²⁰ sets forth the general requirements of licensing procedures in Russia²¹.

The Law on Licensing defines relevant terms associated with licensing, provides a list of activities, which are subject to licensing, and regulates relations arising between State authorities and legal entities (or entrepreneurs) that apply for licenses.

Pursuant to the Law on Licensing, the basic principles of licensing include: 1) uniformity with respect to the economic environment throughout the territory of the Russian Federation, the types of activities subject to licensing and licensing procedures; 2) statutes establishing the specific types of activities subject to licensing containing licensing requirements and conditions; 3) public awareness and access to information regarding licensing; and 4) the observance of licensing laws²².

Criteria for Determining Activities Subject to Licensing

In determining whether an activity should be subject to licensing, legislators should consider the following: threat of damage to the rights, lawful interests and health of citizens, to the defense and security of the state, to the cultural heritage of nations of the Russian Federation, and whether such activity may be regulated by methods other than licensing²³. When an activity is determined to meet these criteria, it should be included in the list of activities subject to licensing established by the Law on Licensing, if necessary, by amendment.

Licensing Authority

The Law on Licensing authorizes the Russian Government to approve statutes on licensing specific activities, determine which federal executive bodies should be responsible for licensing specific activities, and establish the types of activities which should be licensed by Regional executive bodies²⁴. The list of activities subject to licensing by federal executive bodies as well as by Regional executive bodies is established in Government Enactment No. 135, dated November 02, 2002.

The licensing agencies are authorized to perform the following: issue licenses, re-execute documents confirming the availability of licenses, suspend the validity of licenses, renew licenses, annul licenses, maintain the license registry, and enforce licensee observance of licensing requirements and conditions while performing licensed activities subsequent to license issuance²⁵.

Validity of a License

There are territorial and other limitations to the validity of licenses. According to the Law on Licen-

ing, licenses issued by federal licensing agencies are valid throughout the Russian Federation, while licenses issued by regional agencies require prior notification of the licensing agencies of a different region if a licensee intends to perform licensed activity in that region²⁶. In addition, each type of activity listed in Article 17 of the Law on Licensing requires the receipt of a separate license, and only the legal entity or entrepreneur to whom the license has been issued may perform the particular licensed activity. In other words, a license cannot be assigned or otherwise transferred by one legal entity to another.

Licenses are issued for a term of validity of at least five years, unless the applicant requests a shorter term in the license application²⁷.

Documents Accompanying a License Application

Article 9 of the Law on Licensing provides that an applicant for a license (a legal entity) must submit the following documents, common to all license types, to the licensing agency in order to obtain a license:

- a. an application indicating:
 - i. the name, the legal form and location of the legal entity;
 - ii. licensed activity an applicant intends to perform;
- b. a copy of foundation documents and certificate on state registration of an applicant in its capacity as a legal entity;
- c. a copy of the applicant's certificate of registration with the tax body;
- d. a document confirming payment of fees for application review (approximately \$10);
- e. copies of documents confirming the corresponding qualifications of the legal entity's employees for licensing requirements.

Copies of documents indicated in sub-points "b" and "c" above, not certified by a notary, should be presented with an original.

²⁰ Federal Law No. 128-FL "On Licensing Certain Types of Activities," August 8, 2001, last amended March 11, 2003.

²¹ A revised version of the law will enter into force in January 2004. The only substantial change is that as of 2004, the sale of electrical power to the population is a licensed activity.

²² Law on Licensing, Article 3.

²³ Law on Licensing, Article 4.

²⁴ Law on Licensing, Article 5.

²⁵ Law on Licensing, Article 6.

²⁶ Law on Licensing, Article 7, Point 2.

²⁷ Law on Licensing, Article 8.

Term of Review

The licensing body must render a decision issuing or refusing to issue a license within 60 days from the date that the application, with all necessary attachments, is received.

In addition to the documents listed above, statutes on licensing specific types of activities may require submission of other documents, as mandated by regulations governing the performance of such activities.

Upon receipt and acceptance of documents by the licensing agency, the agency should provide the applicant with a list of documents accepted, indicating the date of their receipt²⁸. An applicant for a license bears responsibility under Russian law for the submission of unreliable or distorted data²⁹.

Grounds for Refusal

The licensing authority may deny a license application if the documents submitted by the applicant contain unreliable or distorted information, or if an applicant does not meet the licensing requirements and conditions³⁰.

License Annulment and Suspension

Licenses may be annulled in the following events³¹:

- ! liquidation of the legal entity or termination of its activity as a result of its reorganization, except for transformation (change of its legal form).
- ! non-payment by the licensee of the license issuance fee within three months from receipt of the licensing agency decision granting the license.

Licensee's infringement of license requirements and conditions, which entail infliction of damage to the rights, lawful interests, health of citizens, defense and security of the state, cultural heritage of nations of the Russian Federation, and (or) in

the event a licensee has not eliminated the infringements within the period of time established by the licensing agency.

Licensing agencies have the right to suspend the effect of a license if they

become aware of a licensee's repeated or gross infringements of the license requirements and conditions. In such event, the licensing agency establishes a period of time for the elimination of such infringements and the license is suspended for this period of time³². This period cannot exceed six months³³. After this period of time, if the licensee has not eliminated these infringements, the licensing agency should apply to a court for annulment of the license. If the licensee has eliminated the infringements, it should notify the licensing agency in writing. Within three days of receipt of such notice, the licensing agency should verify that the infringement has been eliminated in fact and make a decision on renewal of the license and inform the licensee. No payment is levied for the renewal of the license. The period of validity of the license is not extended as a result of the period of suspension³⁴.

The licensing agency must inform the licensee if it suspends, annuls, or files an application with the court to annul, a license, in written form, with justification of its decision within three days of its adoption. Such decision may be appealed by the licensee in accordance with the procedure established by Russian law.

Content of a License

The Law on Licensing provides that the license should indicate the following:

- ! Name of the licensing agency;
- ! Name, legal form and address of the licensee;
- ! Licensed type of activity;
- ! Term of validity of the license;
- ! Taxpayer Identification number;
- ! License number;
- ! Date of issuance of the license.

Construction Contractors and GOSTROI Registration

Russian law establishes specific standards for construction, referred to as the State Standard (GOST)³⁵. These standards are used to categorize buildings and other construction projects into three separate levels based on the degree of responsibility required for their construction. This is determined by the economic, social and ecological impact of the construction.

²⁸ Law on Licensing, Article 9, Point 1.

²⁹ Law on Licensing, Article 9, Point 1.

³⁰ Law on Licensing, Article 9, Point 3.

³¹ Law on Licensing, Article 13, Points 2, 3, and 4.

³² Law on Licensing, Article 13, Point 1.

³³ Law on Licensing, Article 13, Point 1.

³⁴ Law on Licensing, Article 13, Point 1.

³⁵ State Standard (GOST) No. 27751-88 "Reliability of Constructions and Foundations. Principal Rules of Calculations," July 1, 1988.

For instance, the first level of responsibility applies to buildings and structures, the failure of which is highly likely to lead to significant economic, social and ecological damage. These include oil tanks with a capacity of 10,000 cubic meters or more, pipelines, industrial buildings with heights equal or greater than 100 meters, telecommunication towers of 100 meters or more, and buildings and structures that are considered unique in some way.

The second level of responsibility applies to buildings and construction projects of a massive, or complex nature such as residential complexes, and public, industrial, and agricultural buildings. The third and lowest level of responsibility applies to constructions that have seasonal and auxiliary functions, such as hotbeds, hothouses, summer pavilions, small warehouses and similar constructions.

Only the design and construction of hotbeds, hothouses, summer pavilions and similar constructions, the failure of which would not create economic, social or ecological hardships, do not require licensing.

Design, construction and engineering works for the construction of buildings and installations of the first and second levels of responsibility in accordance with the State Standard are subject to licensing³⁶. A Government Decree provides the list of federal executive bodies that perform licensing procedures³⁷. Regulations establish the procedure for application and issuance of licenses for each type of activity (design, construction, engineering)³⁸. In addition, further guidance for construction license applicants is provided by methodical recommendations issued by Gosstroi, which include a list of documents that must be submitted with the application, model forms of the application, and some supporting documentation.³⁹

Types of Construction Subject to Licensing

A regulation referred to as the Model Classifier provides a comprehensive list of activities in the construction area, which are subject to licensing⁴⁰. A license application must contain the specific types of activities that an applicant intends to undertake, as they are indicated in the Model Classifier.

For example, the Model Classifier lists the following activities, among others, as requiring a license under the heading "General Construction Works":

1. Geodesic work carried out on construction sites

- ! Geodesic marking basis for construction;
- ! Marking work in the process of construction;
- ! Geodesic control of the accuracy of the geometric parameters of buildings (structures);
- ! Executive geodesic survey;
- ! Geodesic measurements of deformations of grounds, construction of buildings (structures) in whole or part.

2. Site preparation

- ! Clearing of territories and preparing them for construction;
- ! Stripping and dismantling buildings and structures;
- ! Construction of temporary roads, engineering utilities and structures;
- ! Laying tracks.

3. Land work

- ! Excavating, vertical planning;
- ! Earth compaction and laying out ground cushions;
- ! Land work in collapsible and heaving soils;
- ! Land work in special conditions (in bogs, poor soil, salt soil, active sand, landslide slopes).

4. Stone works

5. Precasting of concrete and ferroconcrete units

- ! Construction of formwork and rebar placement;
- ! Precasting of solid concrete and ferroconcrete units.

6. Assembling of concrete and ferroconcrete units

- ! Assembling of foundations and walls of underground portions of buildings;
- ! Assembling elements of structures

³⁶ Law on Licensing, Article 17.

³⁷ Russian Federation Government Decree No. 135, February 11, 2002.

³⁸ Regulation on "Licensing of Design Activity of Buildings and Installations of the First and Second Levels of the Responsibility in Accordance with State Standard," approved by Government Decree No. 174 of the Russian Federation, March 21, 2002 ("Regulation on Licensing").

³⁹ Methodical Recommendations on Preparing Documents Necessary for Obtaining a License by an Applicant, approved by Gosstroi Order No. 93, June 3, 2002 ("Methodical Recommendations").

⁴⁰ Composition of the Types of Activity for Design, Construction and Engineering Survey Licensing Referred to the Authority of Gosstroi (the Russian Federation Ministry for Construction), approved by the Chairman of Gosstroi of Russia Mr. A.Zh. Shamuzafov, October 7, 2002, enacted by Gosstroi Order No. 720, October 8, 2002.

of above-ground portions of buildings (columns, frames, girth rails, girders, beams, slabs, wall panels);

! Assembling of ventilation blocks, module lift shafts and trash chutes, utility blocks.

7. Assembling of wood structures

! Site assembly of structures;

! Assembling of factory-made wood (block) buildings and structures.

8. Assembling of light weight enclosed structures

! Metal structures;

! Enclosed structures made from extrusion panels and slabs;

! Framed partitions;

! Walls made from “sandwich” type panels;

! Walls and structures made from glass blocks and shaped glass;

! Window and door blocks, modules made of aluminum, PVX, fiberglass, other polymers and combined materials.

9. Insulation work

! Arrangement of insulation from rolled bituminous materials, hot asphalt mixtures, bituminous pearlite and bituminous ceramzit;

! Arrangement of insulation from polymers of rolled and sheet materials;

! Arrangement of insulation from cement mortar;

! Arrangement of insulation from polymers and emulsified mastic compounds;

! Arrangement of insulation from metal sheets;

! Arrangement of heat insulation using soft, hard and semi-hard fibrous wares and arrangement of insulation coverings made of hard materials;

! Arrangement of heat insulation from slabs and fill materials.

10. Roofing work

! Arrangement of roofs from rolled materials;

! Roofs made from polymers and emulsified bituminous make up;

! Arrangement of roofs made from pieced units;

! Arrangement of details of roofs made from metal sheets.

11. Territory Improvement

! Arrangement of access, walkways and grounds;

! Arrangement of open sports structures;

! Planting.

The Model Classifier also requires the licensing of what it refers to as “Specialized Works” which include, among others, the following types of activity:

! Erecting special structures for intersectoral economy.

! Arrangement of external engineering networks and communications.

! Arrangement of internal engineering systems and equipment.

Many other aspects of construction require licensing pursuant to the Model Classifier. To cover all activities in the confines of this article is impossible. Contractors are encouraged to refer to the Model Classifier with regard to each activity they intend to perform.

Licensing Requirements

Contractors seeking to perform licensed activities should keep in mind the following requirements, which must be satisfied⁴¹:

Qualification of Workers:

a) The legal entity must have managers and specialists with higher or mid-professional education for the profile of work. No less than 50% of managers and specialists on the staff of the legal entity must have higher professional education and work experience of no less than three years for specialists with higher professional education, and no less than five years for specialists with mid professional education;

b) No less than once every five years, a legal entity’s workers who construct buildings and structures must attend continuing professional education courses to improve and refresh their skills;

Sufficient Technical Means for performing the licensed type of works:

c) The legal entity must have under right of ownership or on some other legal basis buildings, structures, construction vehicles, transport

⁴¹ Regulation on Licensing, Item 4.

means, mechanical and hand instruments, technological rigging, mobile energy devices, means for guaranteeing safety, means of control and survey;

Observance of the Law:

- d) Performance of licensed activity in accordance with the requirements of the laws of the Russian Federation, corresponding state standards and norms of technical documents for construction;

Secure Quality Control:

- e) System of quality control for completed work and finished products.

Special List of Documents for Applications of Branch or Representative Offices

Gosstroj has developed the following special list of documents that must accompany license applications of non-Russian entities, which have established a branch or representative offices in Russia:

1. Application indicating the name, the legal form and location of the legal entity and licensed activity, its substance and time frame during which it shall be carried out.
2. Copy of foundation documents, translated into Russian, notarized and legalized by Russian Federation consulate authorities abroad or apostilled (for signatory countries of the Hague Convention of 1961):
 - ! charter;
 - ! certificate by the tax body of the foreign country on the registration of the foreign organization as a taxpayer in the country of incorporation, indicating the taxpayer identification number;
 - ! an excerpt from the trade register or certificate of incorporation or other analogous document, which contains information on the body which registered the foreign organization, the registration number, date and location of registration;
 - ! excerpt from the bank register or a bank reference;
 - ! a decision by an authorized body of the foreign organization on the founding of a department in the Russian Federation (branch or Representative office);
 - ! powers of attorney issued by the foreign organization to the head (manager) of the Russian department.
3. Permission to open a Representative office on the territory of the Russian Federation, issued by the State registration chamber under the Russian Federation Ministry of Justice.
4. A certification on the entry into the State register of representative offices of foreign companies, which have been accredited on the territory of the Russian Federation, issued by the State registration chamber under the Russian Federation Ministry of Justice.
5. A certificate on registration in the tax body of the Russian Federation, indicating INN [tax-payer identification number].
6. Charter of the branch (Representative office) of the foreign legal entity, indicating:
 - ! name of the branch and its founding organization;
 - ! legal form of the founding organization; location of the branch (Representative office) on the territory of the Russian Federation and registered address of its founding organization;
 - ! purpose of founding and types of activity of the branch (Representative office);
 - ! composition, volume and terms of investments of capital in the fixed assets of the branch (Representative office) of the foreign legal entity on the territory of the Russian Federation.
7. Copies of documents confirming the corresponding qualifications of the legal entity's workers for licensing requirements.
8. Information evidencing applicant's right of ownership or other legal right to the buildings and structures necessary to carry out the licensed activity, indicating the title and other requisites of the documents.
9. Documents confirming payment of licensing fees.

An extremely important issue for foreign entities to consider is that foreign legal entities, which have not established a branch or a representative office in Russia, are not entitled to apply for a Russian license and as a result, cannot perform licensed activities in Russia. □