On November 11, 2005, the double-hull Tank Barge DBL 152 collided with the submerged remains of a pipeline service platform that collapsed during Hurricane Rita. Here, the disabled vessel before capsizing showing discharge of oil into the Gulf of Mexico.

Overview

Under the legal authority of the Clean Water Act, the Discharge of Oil regulation, more commonly known as the "sheen rule", provides the framework for determining whether an oil spill to inland and coastal waters and/or their adjoining shorelines should be reported to the federal government. In particular, the regulation requires the person in charge of a facility or vessel responsible for discharging oil that may be "harmful to the public health or welfare" to report the spill to the federal government. The regulation establishes
the criteria for determining whether an oil spill may be harmful to public health or welfare, thereby triggering the reporting requirements, as follows:

- Discharges that cause a sheen or discoloration on the surface of a body of water;
- Discharges that violate applicable water quality standards; and
- Discharges that cause a sludge or emulsion to be deposited beneath the surface of the water or on adjoining shorelines.

Because the Oil Pollution Act of 1990, which amended the Clean Water Act, broadly defines the term "oil," the sheen rule applies to both petroleum and non-petroleum oils (e.g., vegetable oil). The regulation also provides several exemptions from the notification requirements.

Key Provisions of Discharge of Oil Regulation

§110.1 Definitions
Terms not defined in this section have the same meaning given by the section 311 of the Act. As used in this part, the following terms shall have the meaning indicated below: Act means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., also known as the Clean Water Act; Administrator means the Administrator of the Environmental Protection Agency (EPA); Applicable water quality standards means State water quality standards adopted by the State pursuant to section 303 of the Act or promulgated by EPA pursuant to that section; MARPOL 73/78 means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, Annex I, which regulates pollution from oil and which entered into force on October 2, 1983; Navigable waters means the waters of the United States, including the territorial seas. The term includes:

- (a) All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
- (b) Interstate waters, including interstate wetlands;
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) That are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; (3) That are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as navigable waters under this section;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this section, including adjacent wetlands; and
• (f) Wetlands adjacent to waters identified in paragraphs (a) through (e) of this section: Provided, That waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States; Navigable waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA. NPDES means National Pollutant Discharge Elimination System; Sheen means an iridescent appearance on the surface of water; Sludge means an aggregate of oil or oil and other matter of any kind in any form other than dredged spoil having a combined specific gravity equivalent to or greater than water; United States means the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands; Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs and similar areas such as sloughs, prairie potholes, wet meadows, prairie river overflows, mudflats, and natural ponds. [52 FR 10719, Apr. 2, 1987, as amended at 58 FR 45039, Aug. 25, 1993; 61 FR 7421, Feb. 28, 1996]

§110.2 Applicability
The regulations of this part apply to the discharge of oil prohibited by section 311(b)(3) of the Act. [61 FR 7421, Feb. 28, 1996]

§110.3 Discharge of oil in such quantities as "may be harmful" pursuant to section 311(b)(4) of the Act.
For purposes of section 311(b)(4) of the Act, discharges of oil in such quantities that the Administrator has determined may be harmful to the public health or welfare or the environment of the United States include discharges of oil that:
• (a) Violate applicable water quality standards; or
• (b) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. [61 FR 7421, Feb. 28, 1996]

§110.4 Dispersants
Addition of dispersants or emulsifiers to oil to be discharged that would circumvent the provisions of this part is prohibited. [52 FR 10719, Apr. 2, 1987. Redesignated at 61 FR 7421, Feb. 28, 1996]
§110.5 Discharges of oil not determined "as may be harmful" pursuant to section 311(b)(3) of the Act.

Notwithstanding any other provisions of this part, the Administrator has not determined the following discharges of oil "as may be harmful" for purposes of section 311(b) of the Act:

- (a) Discharges of oil from a properly functioning vessel engine (including an engine on a public vessel) and any discharges of such oil accumulated in the bilges of a vessel discharged in compliance with MARPOL 73/78, Annex I, as provided in 33 CFR part 151, subpart A;
- (b) Other discharges of oil permitted under MARPOL 73/78, Annex I, as provided in 33 CFR part 151, subpart A; and
- (c) Any discharge of oil explicitly permitted by the Administrator in connection with research, demonstration projects, or studies relating to the prevention, control, or abatement of oil pollution. [61 FR 7421, Feb. 28, 1996]

§110.6 Notice

Any person in charge of a vessel or of an onshore or offshore facility shall, as soon as he or she has knowledge of any discharge of oil from such vessel or facility in violation of section 311(b)(3) of the Act, immediately notify the National Response Center (NRC) (800-424-8802; in the Washington, DC metropolitan area, 202-426-2675). If direct reporting to the NRC is not practicable, reports may be made to the Coast Guard or EPA predesignated On-Scene Coordinator (OSC) for the geographic area where the discharge occurs. All such reports shall be promptly relayed to the NRC. If it is not possible to notify the NRC or the predesignated OCS immediately, reports may be made immediately to the nearest Coast Guard unit, provided that the person in charge of the vessel or onshore or offshore facility notifies the NRC as soon as possible. The reports shall be made in accordance with such procedures as the Secretary of Transportation may prescribe. The procedures for such notice are set forth in U.S. Coast Guard regulations, 33 CFR part 153, subpart B and in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR part 300, subpart E. [52 FR 10719, Apr. 2, 1987. Redesignated and amended at 61 FR 7421, Feb. 28, 1996; 61 FR 14032, Mar. 29, 1996]

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