

AGREEMENT No. 103
(of August 25, 2005)

“Whereby the Regulation for Use of Waters under the Sole Management of the Panama Canal Authority and Extraction and Use of Waters of the Canal Watershed”

**THE BOARD OF DIRECTORS OF THE
PANAMA CANAL AUTHORITY**

WHEREAS:

Article 315 of the Political Constitution and Article 3 of the Organic Law of the Panama Canal establish that the Panama Canal constitutes and inalienable patrimony of the Panamanian Nation.

Pursuant to the second paragraph of Article 11 of the aforementioned law, the Authority shall set forth the restrictions for the use of lands and waters for reasons of operational or administrative convenience.

Pursuant to Item 10 of Article 18 of the Organic Law, the Board of Directors is charged with granting approval of the administrative policies that promote and ensure the competitiveness and profitability of the Canal.

Pursuant to Item 9 of Article 18 of the Organic Law, the Board of Directors is charged with granting approval of the policies of business, industrial, or service activities that are complementary to the operation of the Canal.

Article 121 of the Organic Law grants the Authority the power to regulate the water resources of the Canal Watershed with the objective of safeguarding the same, preventing a reduction in the water supply.

The Administrator has submitted to the consideration of the Board of Directors the draft regulation pertaining to the aforementioned.

AGREES:

SOLE ARTICLE: the Regulation for Use of Waters under the Sole Management of the Panama Canal Authority and Extraction and Use of Waters of the Canal Watershed is adopted as follows:

**“REGULATION FOR USE OF WATERS UNDER THE SOLE MANAGEMENT OF
THE PANAMA CANAL AUTHORITY AND EXTRACTION AND USE OF WATERS OF
THE CANAL WATERSHED”**

Chapter One
General Provisions
Section One
Definitions

Article 1: For the purposes of this regulation, the words and terms contained in this article shall convey the following meaning:

Waters under the Sole Management of the Panama Canal Authority: Hereinafter, waters under management of the Authority. These are the maritime, lake, and river waters within the inalienable area of the Nation under the exclusive administration of the Canal Authority and which constitutes the Panama Canal.

Canal Operation Compatibility Area: The geographic area, including its lands and waters described in Annex A, which is a part of Law 19 of June 11, 1997, wherein only activities compatible with the operation of the Canal may be undertaken.

Authorization for Use: A permit issued by the Administrator to third parties for the undertaking of specific for-profit activities in established routes within the waters under management of the Authority, subject to compliance by the interested third party with the conditions required in this regulation and in the authorization for use, as well as to the payment of the rates for this purpose as set by the Executive Committee on Pricing.

Vessel: All concave construction capable of floating on water and that serves as a means of transportation, including those without self-propulsion, as well as hydroplanes that may be used as a means of transportation on water.

Executive Committee on Pricing: A Committee designated by the Administrator and composed of employees of the Authority and charged with the responsibility of evaluating and approving prices and rates for all commercial activities of the Panama Canal Authority.

Soil Components: Materials of a mineral, animal, or vegetable origin found on the bottom of waters under the management of the Authority, which include rocks, sand, algae, tree trunks, or vegetation adhered, incrustated, or joined to the soil.

Concession: A contract subject to the procedure established in this regulation, subscribed to between the Authority and a third party, for the extraction of soil components and for the exclusive use of water areas under the management of the Authority.

Canal Watershed: A geographic area described in Law 44 of 1999.

Allowable Density: A determination made by the administration of the maximum number of vessels that may, simultaneously, coincide in a specific area without having a negative impact on the operation of the Canal.

Auxiliary Vessel: A vessel that is part of the equipment used by vessels, operated by the same operator of the transporting vessel, and used for the transportation of its passengers, crew, or supplies.

Small Vessel: A vessel measuring up to 20 meters (65 feet) in length.

Large-scale Extraction: The continual extraction of water, in amounts greater than 20,000 gallons a day.

Authority Regulations: Comprise Title XIV of the Political Constitution, Law 19 of June 11, 1997, regulations issued by the Board of Directors of the Canal Authority, Usage Plan, and the manuals and directives issued by the Administrator that amplify the regulations.

Usage Plan: The Land Usage Plan of the Panama Canal Authority.

Bid: Contracting procedure, open to the public, whereby offers are accepted that are greater than the basic rate established by the Executive Committee on Pricing for a commodity and awarded to the highest bidder.

Third Party: Any individual or corporate entity other than the Panama Canal Authority.

Exclusive Use: Use of a specific area granted by the Authority solely to an individual or corporate entity.

Commercial Use of Waters under Management of the Authority: Commercial use of the waters under management of the Authority, whether for the extraction of said waters or its soil components, or to undertake commercial activities therein, such as passenger and cargo transportation, fishing, and tourism excursions.

Section Two General Requirements

Article 2: Bonds: All authorizations for use and concessions granted by the Authority pursuant to this regulation shall require that the interested party post a compliance bond for contract compliance and for any damages sustained by the Canal Authority related to the exercise of the authorization for use or concession, which must remain current as long as the authorization or contract is in effect.

This bond shall, at a minimum, represent 10% of the value of the contract.

Exceptions to this requirement are the extraction of raw water, as well as the sale of potable water.

Article 3: Maximum Concession Period. The maximum period, ordinarily, for the duration of concession contracts shall be 20 years. Nevertheless, some such contracts may be entered into for up to a maximum term of 40 years, when in the judgment of the Board of Directors of the Authority and set forth in a motivated resolution, these projects, because of the magnitude of the investment, their economic impact, or employment-generating potential, may require a term longer than the established.

Article 4: Applicable Schedule for the Commercial Use of Waters under Management of the Authority. The commercial use of waters under management of the Authority shall be governed by the provisions of this regulation, the regulations of the Authority, the terms and conditions of compatibility determined by the Administrator for the pertinent activity, and by the determinations in the respective authorization for use or contract.

Chapter Two

Exclusive Use of Water Areas under Management of the Authority

Article 5: Exclusive Use of Water Areas. The exclusive use of waters under management of the Authority shall be granted by a concession contract which shall be awarded pursuant to the procedures for the selection of contractors established in Article 9 of this regulation.

The Administrator shall authorize and sign these contracts when the amounts do not exceed B/100,000.00 for the duration of the contract. When the amounts are greater, approval shall be made by the Board of Directors.

Chapter Three

Extraction of Soil Components in Waters under Management of the Authority

Article 6: Extraction of Soil Components in Waters. The Board of Directors may grant concession for the extraction of soil components in waters under management of the Authority, subject to the procedures for the selection of contractors.

Chapter Four

Use of Waters under Management of the Authority by Vessels to Carry Out Commercial Activities

Section One

General Regulations

Article 7: The commercial use or the development of business activities in waters under management of the Authority by vessels of third parties requires authorization for use of the area or route and for the specific proposed activity that will be undertaken. Said authorizations shall be granted for a period no greater than two (2) years, which may be renewed as long as there is compliance, and there has been compliance while the authorization for use that is being renewed was in effect, with the requirements set forth in this regulation, the regulations of the Authority, and the terms and conditions of the authorization, including the regular payment of rates.

This regulation does not apply to vessels transiting the Canal, nor to those headed to port exclusively for services. Neither does it apply to the activities carried out by vessels by virtue of contracts with the Panama Canal Authority for the execution of a project or assistance to transiting vessels.

Article 8: The commercial use of waters under management of the Authority by third-party vessels shall be granted by authorization for use subject to the following criteria:

1. Type of activity
2. Areas in which said activity will be carried out
3. Payment of the established rate
4. Compliance with Authority regulations by the interested party
5. Compliance with the requirements of the Authority for said activity
6. Allowable density, when required by this regulation

Article 9: The procedure for granting authorizations for use shall be as follows:

1. The Executive Committee on Pricing shall establish rates for vessels, which shall be previously announced with the objective that contracting with interested parties may be entered into under equality of conditions.
2. Said publication shall be made in two (2) newspapers, of nationwide circulation, for a period no less than three (3) calendar days; it shall be placed on the Internet in the rates section and shall be published in the Canal Register. Publication shall include a description of the activity and route object of the authorization for use and shall indicate that bids shall be accepted for the rate or sums above it, and in the event more bids are received than the allowable density, authorizations for use shall be granted to the highest bidders. Also included shall be the terms and conditions for the development of the activity and the deadline date for receipt of requests.
3. Bids shall be received for thirty (30) calendar days counted from the first day of publication.
4. Upon completion of the aforementioned thirty (30) calendar days, the award shall be made to the bidder that accepts the conditions, complies with the requirements set forth in the Authority regulations and the published bid solicitation, and has bid at the published rate or a greater amount. When more bids are received than the allowable density, the award shall be made to the highest bidders. If two or more have bid said amount and by reason of density an award cannot be made to all, the award shall be made by auction on the basis of the greater amount of the established rate and the highest amount bid.
5. In the event that no awards are made for authorization for use, new bids may be accepted and an award made to the first bidder to pay the rate or a greater amount, providing they accept the conditions and comply with the requirements set forth in the regulations of the Authority and the published bid solicitation.

The Administrator is charged with issuing these authorizations.

Article 10: The commercial use of waters under management of the Authority, outside of the navigational channel and the anchorage, carried out by self-employed inhabitants of the rural

areas adjacent to the Gatun and Alajuela lakes, with small vessels of a capacity for twelve (12) or less passengers, shall not require authorization for use, will not be required to pay rates, but shall be subject to compliance with the regulations of the Authority.

Article 11: The individual or corporate entity that is the owner or operator of a vessel and wishes to use it for commercial activities in waters under management of the Authority, shall request authorization for use of waters and of route and comply with the following requirements:

1. Register with the designated office of the Authority. This registration shall be valid for one (1) year.
2. Submit the vessel to a physical inspection by the office designated by the Authority, to ensure that it complies with the requirements established by the Authority. In the event that it is ensured that these requirements are met, the inspection shall be valid for one (1) year.
3. Affix a clearly visible sticker that will state the identification number of the vessel, which shall be assigned by the Authority upon its registration.
4. Place a copy of the operation permit in the vessel, which shall be available upon request by a competent authority. This permit shall be granted once the requester has been notified of the authorization and terms and conditions of the same.
5. Have an insurance policy that is current and approved by the Authority for liability to third parties, for no less than two million balboas (B/.2, 000,000.00). This policy does not limit the civil responsibility of the owner, operator, or charter for damages arising from the conduct of his activities.
6. Maintain on board and in good operating conditions the safety and communications equipment required by the Authority.
7. The owner or operator of the vessel—if an individual—or its legal representative—if a corporation—shall sign a document releasing the Authority of all liability for damages that may be sustained by the vessel, its crew, passengers, and cargo as a result of and in relation to this commercial activity.
8. Submit a copy of current navigational license and radio license issued by the General Directorate of the Merchant Marine of the Panama Maritime Authority.
9. Submit a copy of the license issued by the Board of Inspectors to the master of the vessel. In the case of passenger vessels and request for activities in marine waters, it shall be further required to submit a current copy of the license issued by the Panama Maritime Authority.

Article 12: All individual or corporate entity that owns or operates an installation or vessel that carry out operations of transshipment of hydrocarbons in waters under management of the Authority is obliged to:

1. Request authorization as established in this regulation, prior to the conduct of the activity.
2. Comply with the terms and conditions of said authorization for use, as well as the regulations of the Authority.
3. Coordinate beforehand with the vessel that will receive the hydrocarbon, the amount to be transhipped, the approximate duration of the transshipment, and the manner in which it will be supplied.
4. Take several measurements of the amounts supplied during the operation, as a part of the control measures to prevent spills.

5. Document transshipment operations to state the aforementioned.
6. Maintain installation personnel or a crew member verifying the transshipment operations to ensure they are carried out in an adequate manner to prevent spills or minimize their effects.
7. Immediate suspension of transshipment operations in the event any spillage of hydrocarbons is detected during operation.
8. Report immediately to the Authority in the event of any spillage of hydrocarbons

Article 13: All discharge of waste waters and contaminants or garbage in waters under management of the Authority is prohibited. Consequently, any vessel that is intended to be used for activities that entail the presence within it of crew or passengers for periods greater than four (4) hours in waters under the management of the Authority, shall be outfitted with a system for the collection of waste waters in tanks with sufficient capacity for the amount of passengers and crew it can transport and shall present, as a requirement to obtain the authorization, a copy of the contract with the firm that shall make the collection, treatment and final disposition of said waters, pursuant to legal regulations in force.

The discharge of liquid, solid, or gaseous substances in waters under management of the Authority constitutes a punishable administrative offense under the Regulation for Navigation in Canal Waters, and may lead to the cancellation of the operating permit of the vessel and authorization for use for the activity and use of the route.

Article 14: An authorization for use of waters for a commercial activity on a determined route issued to a vessel pursuant to this regulation is not transferable; therefore, the transfer or use of the vessel by another owner or operator shall automatically render it void.

Article 15: The captain, operator, proprietor and charter of the authorized vessel, and the person who has obtained the authorization for use of waters, are jointly obliged to comply with the Regulation for Navigation in Canal Waters, the Notices and Announcements to Shippers, Authority regulations, the requirements established by the Authority, and the terms and conditions of the authorizations for use, for which they shall be jointly liable for their non-compliance and subject to the sanctions set forth in these regulations.

Article 16: The Authority shall not be liable for damages caused to the vessels, its owners, operators, passengers, or cargo arising from the use—whether authorized or not—of waters under its management.

Article 17: The Authority may conduct periodic inspections of the vessels and its operators, crew, cargo, and passengers that are in waters under management of the Authority, to verify that there is compliance with the regulation of the Authority, the requirements, the terms and conditions of the authorization for use and the terms and conditions for compatibility established for the specific activity.

Article 18: The responsibility for response to emergencies on the vessels holding authorization for use of waters under management of the Authority shall be the exclusive purview of said vessels, their proprietors, or operators. The Authority shall not assume any responsibility for

attending emergencies that may arise in the exercise of or in relation to the activities it has authorized.

Section Two

Use of Lake or River Waters under Management of the Authority

Article 19: Authorization for commercial use by third parties, of lake or river waters under management of the Authority shall be granted to small vessels for the development of specific activities, on determined routes, subject to the payment of rates established for said routes, compliance by the vessel with the requirements set forth by the Authority for said activity and allowable density.

When a route is approved, determination shall be made on the maximum density for vessels that may use it on the same day.

Article 20: In the case of small commercial vessels that transport passengers, in addition to the conditions established in the previous articles, the Authority shall determine the following:

1. The maximum number of passengers that the small vessel may carry on a specific route and trip, which shall be equal or less than the maximum number of passengers approved pursuant to the Inspection Certificate of the vessel issued by the General Directorate of the Merchant Marine of the Panama Maritime Authority, depending on whether the Panama Canal Authority feels that the proposed route justifies a restricted number of visitors.
2. The locations along the established routes where the commercial vessels may, under their sole responsibility, anchor or carry out recreational activities for the entertainment of passengers, such as swimming, kayaking.

Article 21: A formal request and previous authorization by the Authority is required for passenger vessels to use their auxiliary vessels for commercial activities in lake or river waters under management of the Authority.

Section Three

Use of Maritime Waters under Management of the Authority

Article 22: The Administrator shall authorize commercial use in maritime waters under management of the Authority by third-party vessels for the development of specific activities in determined areas, subject to the payment of rates established for the approved activity, to compliance with regulations of the Authority, the requirements, terms and conditions required therewith in this regulation, and vessel compliance with the requirements of the Authority for said activity.

All movement of vessels in maritime waters under management of the Authority must be previously coordinated and authorized by the Authority.

Article 23: Should there be saturation in a particular area because of the number of activities taking place therein, the Administrator may deny requests for authorization for use that may have been submitted subsequent to the declaration by the Board of Directors concerning the state of saturation.

Article 24: Vessels authorized to carry out commercial activities in maritime waters under management of the Authority shall require a pilot of the Authority to operate, unless the Regulation for Navigation in Canal Waters grants exemption from piloting

Chapter Five Extraction and Other Uses of Waters in the Canal Watershed

Article 25: Extraction of Raw Water from the Canal Watershed. As long as Canal operation or the ability to supply potable water is not impacted, the Authority may directly provide services for supply or sale of raw water, as well as authorize third parties to extract raw water from the Canal Watershed, including its underground waters.

The supply or sale conducted directly by the Authority shall be made based on a rate, which would have previously been established by the Executive Committee on Pricing.

Article 26: Large-scale Extraction of Raw Water from the Canal Watershed. The large-scale extraction of raw water from the Canal Watershed requires previous authorization from the Authority and shall be subject to the terms and conditions of the sale contract for raw water and to the payment of rates previously established by the Executive Committee on Pricing. These requirements apply equally to large-scale extraction of raw water by individuals or corporate entities, pursuant to contracts entered into or concessions granted by the State.

The Administrator may exempt public agencies that directly provide purification and supply of potable water to the population from the payment of the rate for the extraction of raw water.

Article 27: Small-scale Extraction of Raw Water from the Canal Watershed. The Administrator may enter into agreements with public agencies for them to evaluate, authorize, and collect, pursuant to agreed terms, small-scale extraction of water from the Canal Watershed. These agreements shall include an obligation to submit a report to the Authority every two months of the concessions granted, including the authorized volume of water extracted, the names of those authorized, and the site from which the extraction will be made.

Article 28: Dams and Generation of Hydroelectric Power. The construction of water dams in the Canal Watershed, as well as the use of water in said watershed for the generation of hydroelectric power shall be previously authorized by the Authority and shall be subject to the terms and conditions of the concession contract, as well as the regulations of the Authority.

Chapter Six Final Provisions

Article 29: Suspension or Revocation of Authorization for Use, Extraction, or Concession Without Imputable Cause. The Authority reserves the right to suspend or revoke unilaterally authorization for use, raw water extractions, and concessions for the use of waters under management of the Authority, without cause imputable to a third party, when in its judgment the smooth functioning of the Canal so requires it. This authority shall be understood to be implicitly incorporated to the referenced authorizations and concessions.

The resolution issued in these cases may be appealed for reconsideration pursuant to the Regulation that approves the General Administrative Procedures of the Authority. This appeal may be granted by restitution.

The Authority shall adjust and pay the corresponding damage. Any dispute arising from this adjustment or the quantity of the indemnity shall be resolved by arbitration.

Article 30: Cancellation of the Authorization for Use, Concession or Authorization for the Extraction of Water by Imputable Cause. Any violation of the provisions of this regulation as well as non-compliance with the terms and conditions of the authorization for use, the concessions, or the authorization for the extraction of water may result in the cancellation of the authorization for use, concession, or authorization for raw water extraction, without prejudice or liability for indemnity or compensation by the Authority. Should any of these offenses be incurred, the Administrator may order the immediate suspension of the activity and may coordinate with law enforcement authorities for support in enforcing said measure.

Article 31: Sanctions for Violation of the Regulations of Chapter Four. Violation of the regulations established in Chapter Four of this regulation constitutes a sanctionable offense pursuant to the Regulation for Navigation in Canal Waters.

Article 32: Sanctions to Vessels for Unauthorized Use Activities or for Conducting Authorized Activities Outside the Authorized Route. The conduct of unauthorized for-profit or commercial activities by vessels or the conduct of authorized activities in unauthorized routes or areas, as well as failure to comply with the terms and conditions of the authorization for use is a punishable administrative offense pursuant to the Regulation for Navigation in Canal Waters, and may give rise to the cancellation of the vessel operation permit and the authorization for use for the activity and the route, without prejudice or obligation of the Authority to indemnify or compensate in any way. Should any of these offenses be incurred in, the Administrator may order the immediate suspension of the activity and, should it be required, to enforce said order, may coordinate with law enforcement agencies for support to enforce the measure.

The resolution for cancellation of authorization for use may be appealed for reconsideration pursuant to the Regulation that approves the General Administrative Procedures of the Authority. This appeal may be granted by restitution.

Article 33: Authorizations for use and concessions that are approved or awarded pursuant to this regulation, do not limit the right of the Authority to conduct on its own the activities object of said authorization or concession.

Article 34: The Administrator may adopt and develop the procedures deemed appropriate for the implementation of this regulation.

Article 35: The Administrator may periodically report to the Board of Directors on the activities being carried out pursuant to this provision.

Article 36: The phrase “supply or sale of raw water, purified” is deleted from Article 4 and Article 5 of the Panama Canal Authority Regulation for Commercial, Industrial, or Service Activities and Article 18 of the Regulation on the Environment, Watershed, and Inter-institutional Watershed Committee of the Panama Canal approved in Agreement 16 of June 17, 1999.

Article 37: This regulation shall become effective upon its publication in the Canal Register.

Given in the City of Panama on the 25th day of the month of August of two thousand five.

TO BE PUBLISHED AND ENFORCED

Ricaurte Vásquez M.

Diógenes de la Rosa

Chairman of the Board of Directors

Secretary