

AGREEMENT No. 78
(of May 27, 2004)

“Whereby the Regulation on Navigation in Panama Canal Waters is amended”

THE BOARD OF DIRECTORS
OF THE PANAMA CANAL AUTHORITY

WHEREAS:

The Board of Directors of the Panama Canal Authority approved the Regulation on Navigation in Panama Canal Waters by means of Agreement No. 13 of June 3, 1999.

The Regulation on Navigation in Panama Canal Waters was amended by Agreements No. 65 of April 22, 2003, and No. 71 of December 16, 2003, with the addition of Section Four to Chapter IX, Dangerous Cargo, Panama Canal Shipboard Oil Pollution Emergency Plans (PCSOPEP).

Upon implementation of these agreements, Canal users in the international maritime community voiced their opinion on the effects of said agreements, and recommended that the Panama Canal Authority provide response and cleanup services in the event of oil spills from vessels in transit or awaiting transit.

In view of the above mentioned opinions and recommendation, the Administration deems that a full revision of Agreements No. 65 of April 22, 2003, and No. 71 of December 16, 2003, is required for the purpose of adjusting their scope and extent of application to the technical requirements for the response and cleanup of oil spills from vessels in transit or awaiting transit of the Panama Canal, and for establishing a legal framework whereby the Panama Canal Authority may provide services to respond to oil spills in Panama Canal Waters.

The Administrator of the Authority has submitted to the consideration of the Board of Directors a draft agreement containing the amendments pertinent to the above.

IT AGREES:

ARTICLE ONE: Section Four, Panama Canal Shipboard Oil Pollution Emergency Plans, of Chapter IX, Dangerous Cargo, of the Regulation on Navigation in Panama Canal Waters, is hereby amended and shall read as follows:

“Section Four
Vessel Contingency Plans for Oil Spills in Panama Canal Waters

Article 141 A: In addition to the requirements specified in Article 41 of this Regulation, vessels within the categories designated by the Panama Canal Authority approaching Canal waters shall provide the following documents for their review and approval:

- a. A copy in English of the Panama Canal Shipboard Oil Pollution Emergency Plan for Canal Waters (PCSOPEP), prepared specifically for the vessel.
- b. A copy of a valid International Oil Pollution Prevention Certificate (IOPP).

Vessels shall also submit, at the request of the Authority:

- a. A copy of the Shipboard Oil Pollution Emergency Plan (SOPEP), Annex I, MARPOL.
- b. A copy of the Shipboard Marine Pollution Emergency Plan (SMPEP), Annex II, MARPOL.

The PCSOPEP shall be prepared by a party or organization with experience in spill response and cleanup tasks that meets the following requirements:

- a. Provide proof of experience in the preparation of plans for the management of marine oil spills or other hazardous substances.
- b. Provide a list of the plans prepared for the management of marine oil spills or other hazardous substances.
- c. Provide a training profile or certifications of knowledge and skills in this type of work.

The Authority may, at any time, request the party or organization that has prepared such plans, or the owner or operator of the vessel holding a PCSOPEP, to provide written proof that it is in compliance with these requirements.

The PCSOPEP shall be prepared as specified in the Annex and submitted to the Panama Canal Authority for its review and approval not later than 96 hours prior to the arrival of the vessel in Canal waters. Within this period, the Authority shall inform the vessel concerning its recommendations to the PCSOPEP. The vessel shall comply with the recommendations made by the Authority and submit to the Authority a duly corrected PCSOPEP.

Article 141 B: The vessel shall be responsible for the effectiveness of the PCSOPEP, as established in the Annex.

Article 141 C: The Authority shall establish rates to be charged to vessels according to the categories established for such purpose, to cover the cost of keeping the personnel and equipment available to respond to oil spill incidents from ships in transit or awaiting transit of the Panama Canal.

These rates shall be charged without prejudice to any costs incurred by the Authority for the oil spill response and cleanup tasks, and payment of such costs shall be guaranteed by the ship as established in Article 4A of this Regulation.

Article 141 D: In the event of an oil spill from a vessel in transit or awaiting transit of the Panama Canal, the vessel involved shall activate its own PCSOPEP and immediately notify the Authority, as well as the Authorized Person specified in the PCSOPEP, about the incident.

The Authority shall be exclusively in charge of responding to, and cleaning up, oil spills from ships in transit or awaiting transit of the Panama Canal.

The Authorized Person specified in the PCSOPEP shall reside in the Republic of Panama, shall act as liaison with the Authority, and shall be empowered to arrange for and post, on behalf of the vessel, a bond acceptable and satisfactory to the Authority for the payment of any costs incurred by the latter by reason of the response and cleanup tasks.

ARTICLE TWO: The Annex to Section Four, Vessel Contingency Plans for Oil Spills in Panama Canal Waters of Chapter IX, Dangerous Cargo, of the Regulation on Navigation in Panama Canal Waters, is hereby amended and shall read as follows:

Section Four
Vessel Contingency Plans for Oil Spills in Canal Waters

Article 141 A: The requirements and procedures of the Panama Canal Shipboard Oil Pollution Emergency Plan for Canal Waters (PCSOPEP) shall be disseminated by the Authority by means of Notices and Advisories to Shipping, and shall contain, as a minimum, the following:

- a. A description of the crew training program for the response to shipboard spills and at shore installations.
- b. A specific description of the measures for the prevention of this type of incident in Canal waters and installations.
- c. The procedure to notify about the incident.
- d. The procedure to respond to this type of incident.
- e. A record and the results of periodic drills, the crew response actions, and the actual responses to previous incidents.
- f. The identity of the Authorized Person, who shall reside in the Republic of Panama. This person shall act as liaison with the Authority and his duties shall include arranging for and posting, on behalf of the vessel, a bond acceptable and satisfactory to the Authority, for the payment of the costs the latter may incur by reason of the oil spill response and cleanup tasks.

The PCSOPEP shall be submitted to the Authority for its review and approval. Vessels whose documents have previously been reviewed and accepted by the Authority are only required to display them during the routine inspection conducted by Authority personnel.

Article 141 B: For the purposes of ensuring the effectiveness of the PCSOPEP, every vessel shall:

- a. Submit to the Authority for its review any updates and changes to the Response Plan, including any changes in designation of the Authorized Person and an alternate.
- b. Maintain available for review by the Authority logs of drills and incidents, response to actual incidents, and crew training.
- c. Participate, at the request of the Authority, in drills and exercises of PCSOPEP activation and emergency response the Authority may conduct.”

ARTICLE THREE: This Agreement supersedes Agreements No. 65 of April 22, 2003, and No. 71 of December 16, 2003, in their entirety.

ARTICLE FOUR: This Agreement shall become effective on January 1, 2005.

Issued in the city of Panama, on the twenty-seventh (27th) day of the month of May of the year two thousand and four (2004).

TO BE PUBLISHED AND ENFORCED.

Jerry Salazar A.

Diógenes de la Rosa

Minister for Canal Affairs

Secretary